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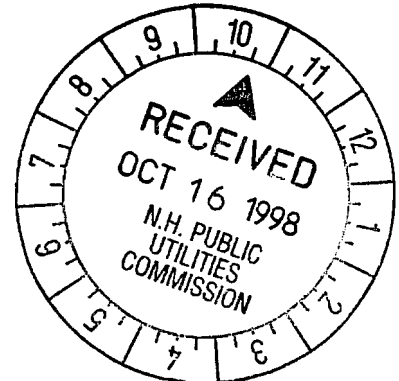
General Counsel - New Hampshire



October 16, 1998

Mr. Thomas B. Getz  
Executive Director and Secretary  
New Hampshire Public Utilities Commission  
8 Old Suncook Road  
Concord, NH 03301

Re: Interconnection Agreement Between  
Lightship Telecom, L.L.C. and Bell Atlantic



Dear Mr. Getz:

In accordance with Order No. 22,236 dated July 12, 1996, Lightship Telecom, L.L.C. and New England Telephone and Telegraph Company, d/b/a Bell Atlantic-New Hampshire hereby file an interconnection agreement between them dated August 17, 1998, and jointly petition the Commission for approval of that agreement pursuant to Section 252(e) of the Telecommunications Act of 1996 (the Act), 47 U.S.C. § 252(e). Subject to the limited exceptions noted in the text, the instant agreement incorporates by reference an interconnection agreement with KMC Telecom, Inc., which the Commission approved in Docket DE 97-054. Information describing the KMC agreement was filed in the earlier docket. Should the Commission subsequently request the submission of further information, the parties will timely comply with such request.

Under the Act, a state commission may reject a negotiated interconnection agreement such as this one only if the commission finds that the agreement (or any portion thereof) discriminates against a telecommunications carrier not a party to the agreement, or that the agreement's implementation would not be consistent with the public interest, convenience and necessity. 47 U.S.C. § 252(e)(2)(A). The parties respectfully submit that their agreement meets this statutory standard and therefore request that the Commission approve it. Section 252(e)(4) of the Act provides that if a state commission does not act to approve or reject a negotiated interconnection agreement within 90 days after its submission, it shall be deemed approved.


Mr. Thomas B. Getz  
October 16, 1998  
Page 2

Representing Lightship Telecom is Morton J. Posner, Esquire. Please include Mr. Posner on all notices and service lists. His address is:

Morton J. Posner, Esquire  
Swidler Berlin Shereff Friedman, LLP  
3000 K Street, NW, Suite 300  
Washington, DC 20007-5116  
Tel (202) 424-7500  
Fax (202) 424-7643

Thank you for your attention to this matter.

Sincerely,

The signature is written in cursive and includes a stylized slash followed by the word 'mag'.

Victor D. Del Vecchio

cc: Morton J. Posner, Esquire

lightship10-16-98

**INTERCONNECTION AGREEMENT UNDER SECTIONS 251 AND 252 OF THE  
TELECOMMUNICATIONS ACT OF 1996**

**Dated as of August, 17 1998**

**by and between**

**BELL ATLANTIC - NEW HAMPSHIRE, INC.**

**and**

**LIGHTSHIP TELECOM, L.L.C.**

## **INTERCONNECTION AGREEMENT UNDER SECTIONS 251 AND 252 OF THE TELECOMMUNICATIONS ACT OF 1996**

This Interconnection Agreement (this "Agreement"), under Sections 251 and 252 of the Telecommunications Act of 1996 (the "Act"), is effective as of the 17<sup>th</sup> day of August, 1998 (the "Effective Date"), by and between New England Telephone and Telegraph Company d/b/a Bell Atlantic - New Hampshire, Inc. ("BA"), a New York corporation with offices at 125 High Street, Boston, Massachusetts 02210, and Lightship Telecom, L.L.C. ("Lightship Telecom"), a limited liability company with offices at 100 West 80<sup>th</sup> Street, New York, NY 10024 (each a "Party" and, collectively, the "Parties").

WHEREAS, Lightship Telecom has requested that BA make available to Lightship Telecom interconnection, service and unbundled network elements upon the same terms and conditions as provided in the Interconnection Agreement (and amendments thereto) between KMC Telecom, Inc. and BA, dated as of February 14, 1997, for New Hampshire, approved by the Commission under Section 252 of the Act (the "Separate Agreement") and attached as Appendix 1 hereto; and

WHEREAS, BA has undertaken to make such terms and conditions available to Lightship Telecom hereby only because and, to the extent required by, Section 252(i) of the Act.

NOW, THEREFORE, in consideration of the mutual provisions contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Lightship Telecom and BA hereby agree as follows:

### **1.0 Incorporation of Appendices by Reference**

1.1 Except as expressly stated herein, the terms and conditions of the Appendices hereto (including, without limitation, Appendix 1 hereto with all Schedules and Exhibits thereto) are incorporated by reference in their entirety herein and form an integral part of this Agreement.

1.2 References in Appendix 1 hereto to KMC Telecom II, Inc. or to KMC shall for purposes of this Agreement be deemed to refer to Lightship Telecom.

1.3 References in Appendix 1 hereto to NYNEX or to NET shall for purposes of this Agreement be deemed to refer to BA.

1.4 References in Appendix 1 hereto to the "Effective Date", the date of effectiveness thereof and like provisions shall for purposes of this Agreement be deemed to refer to the date first written above. Unless terminated earlier in accordance with the terms of Appendix 1 hereto, this Agreement shall continue in effect until the Separate Agreement is terminated.

1.5 The Joint Grooming Plan referred to in Section 8.1 of Appendix 1 hereto shall be developed upon the request of either Party within a reasonable amount of time after receipt of such request.

1.6 Notwithstanding Section 27.6 of Appendix 1 hereto and in lieu of the monthly performance reports set forth in such Section 27.6, at such time as BA makes available the Performance Monitoring Reports set forth in the Memorandum Opinion and Order adopted by the FCC on August 14, 1997 (the "FCC Merger Order") to other Telecommunications Carriers purchasing Interconnection from BA, BA shall provide Lightship Telecom with the Performance Monitoring Reports applicable to Lightship Telecom in accordance with the requirements of said FCC Merger Order.

1.7 Notices to Lightship Telecom under Section 29.12 of Appendix 1 hereto shall be sent to the following address:

Lightship Telecom, L.L.C.  
ATTN: Mr. Kevin O'Hare  
100 West 80<sup>th</sup> Street  
New York, NY 10024

1.8 Notices to BA under Section 29.12 of Appendix 1 hereto shall be sent to the following address:

President - Telecom Industry Services  
Bell Atlantic  
1095 Avenue of Americas  
40<sup>th</sup> Floor  
New York, New York 10036  
Facsimile: 212/597-2585

## **2.0 Amendments and Clarifications**

2.1 The Parties agree that if the Separate Agreement is amended, modified or supplemented, or if as a result of any decision, order or determination (whether before, on or after the date hereof) of any judicial or regulatory authority with jurisdiction over the subject matter thereof, it is determined that BA is not required to furnish any service or item or provide any benefit otherwise required to be furnished or provided to KMC Telecom II, Inc. (any of the foregoing, an "amendment") then either Party may, at its sole option, avail itself of any such amendment by providing written notice to the other Party; except that neither Party may, without the consent of the other Party, avail itself of any amendment that would result in the other Party being denied any form of Interconnection, access to unbundled Network Elements, retail telecommunications service for resale, or any other service or facility that is available under this Agreement and that the first Party is required by the Act to make available to other telecommunications carriers upon request.

In such instances, the Parties agree to cooperate in effecting the same amendment to the corresponding provisions contained in this Agreement, which amendment shall be effective from the date of written notice by the availing Party (or, in the case of any decision, order or determination of an applicable judicial or regulatory authority, the date thereof or the date of effectiveness noted therein, if so noted; and for the avoidance of doubt, BA expressly reserves all rights it may have to discontinue any such service, item or benefit provided under this Agreement to the extent permitted by any such decision, order or determination).

**2.1.1** Should BA and KMC Telecom II, Inc. become involved in any dispute resolution proceeding the outcome of which may result in a material change to the Separate Agreement:

- (1) Unless such proceeding is before the Commission or the FCC, BA, to the extent it is acting as the first Party, will provide timely written notice to Lightship Telecom of such dispute resolution proceeding so that Lightship Telecom can intervene in such proceeding;
- (2) BA agrees not to oppose any effort by Lightship Telecom to intervene or otherwise participate in such proceeding;
- (3) If BA fails to provide Lightship Telecom with the notice required by subpart (1) above and Lightship Telecom does not intervene in such dispute resolution proceeding, BA will not have the right to avail itself of any amendment to any of the Identical Provisions that results from the dispute resolution proceeding;

**2.1.2** In the event that BA seeks to avail itself of any amendment to the Separate Agreement pursuant to this section 2.1, Lightship Telecom shall have the following options:

- (1) To agree to incorporate such amendment into this Agreement;
- (2) To adopt instead any other then currently effective agreement between BA and another carrier for the New Hampshire pursuant to Section 252(I) of the Act;
- (3) To initiate a negotiation for a new Agreement under Section 252(a) of the Act, in the event of which, those service arrangements made available under this Agreement and existing at the time of such initiation shall continue without interruption under (a) a new agreement executed by the Parties, (b) standard Interconnection terms and conditions approved and made generally effective by the

Commission, (c) Tariff terms and conditions generally available to

CLECs, or (d) if none of the above is available, under the terms of this Agreement on a month-to-month basis until such time as (a), (b), or (c) becomes available.

2.2 The entry into, filing and performance by BA of this Agreement does not in any way constitute a waiver by BA of any of the rights and remedies it may have to seek review of any of the provisions of the Separate Agreement, or to petition the Commission, other administrative body or court for reconsideration or reversal of any determination made by any of them, or to seek review in any way of any portion of this Agreement in connection with Lightship Telecom's election under Section 252(i) of the Act.

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IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as of this 17<sup>th</sup> day of August, 1998.

LIGHTSHIP TELECOM, L.L.C.

By: Kevin M. O'Hare

Printed: Kevin M. O'Hare

Title: President + CEO  
Lightship Telecom

BELL ATLANTIC-  
NEW HAMPSHIRE, INC.

By: Jacob J. Goldberg  
signed for J. Goldberg 8/18/98

Printed: Jacob J. Goldberg

Title: President - Telecom Industry Services



## **APPENDIX 1**

**INTERCONNECTION AGREEMENT UNDER SECTIONS 251 AND 252 OF THE  
TELECOMMUNICATIONS ACT OF 1996**

**Dated as of February 14, 1997**

**by and between**

**NEW ENGLAND TELEPHONE AND TELEGRAPH COMPANY**

**and**

**KMC TELECOM, INC.**

**FOR NEW HAMPSHIRE**

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## **INTERCONNECTION AGREEMENT UNDER SECTIONS 251 AND 252 OF THE TELECOMMUNICATIONS ACT OF 1996**

This Interconnection Agreement under Sections 251 and 252 of the Telecommunications Act of 1996 ("Agreement"), is effective as of the 14th day of February, 1997 (the "Effective Date"), by and between KMC Telecom, Inc. ("KMC with offices at 1545 Route 206, Suite 300, Bedminster, NJ 07921 and New England Telephone and Telegraph Company d/b/a, NYNEX ("NYNEX" or "NET"), a New York corporation with offices at 125 High Street, Boston, Mass. 02110.

WHEREAS, the Parties want to interconnect their networks at mutually agreed upon points of interconnection to provide Telephone Exchange Services (as defined below) and Exchange Access (as defined below) to their respective Customers.

WHEREAS, the Parties are entering into this Agreement to set forth the respective obligations of the Parties and the terms and conditions under which the Parties will interconnect their networks and provide other services as required by the Act (as defined below) and additional services as set forth herein.

NOW, THEREFORE, in consideration of the mutual provisions contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, KMC and NYNEX hereby agree as follows:

### **1.0 DEFINITIONS**

As used in this Agreement, the following terms shall have the meanings specified below in this Section 1.0. For convenience of reference only, the definitions of certain terms that are As Defined in the Act (as defined below) are set forth on Schedule 1.0. Schedule 1.0 sets forth the definitions of such terms as of the date specified on such Schedule and neither Schedule 1.0 nor any revision, amendment or supplement thereof intended to reflect any revised or subsequent interpretation of any term that is set forth in the Act is intended to be a part of or to affect the meaning or interpretation of this Agreement.

1.1 "Act" means the Communications Act of 1934 (47 U.S.C. 153(R)), as amended by the Telecommunications Act of 1996, and as from time to time interpreted in the duly authorized rules and regulations of the FCC or a state regulatory agency within its state of jurisdiction.

1.2 "ADSL" or "Asymmetrical Digital Subscriber Line" means a transmission technology which transmits an asymmetrical digital signal using one of a variety of line codes as specified in ANSI standards T1.413-1995-007R2.

1.3 "Affiliate" is As Defined in the Act.



1.4 "As Defined in the Act" means as specifically defined by the Act and as from time to time interpreted in the duly authorized rules and regulations of the FCC or the PUC.

1.5 "As Described in the Act" means as described in or required by the Act and as from time to time interpreted in the duly authorized rules and regulations of the FCC or the PUC.

1.6 "Automatic Number Identification" or "ANI" means a Feature Group D signaling parameter which refers to the number transmitted through a network identifying the billing number of the calling Party.

1.7 "Busy Line Verification/Busy Line Verification Interrupt Traffic" or "BLV/BLVI Traffic" means an operator service call in which the caller inquires as to the busy status of or requests an interruption of a call on another Customer's Telephone Exchange Service line.

1.8 "Calling Party Number" or "CPN" is a Common Channel Interoffice Signaling ("CCIS") parameter which refers to the number transmitted through a network identifying the calling Party.

1.9 "Central Office Switch" means a switch used to provide Telecommunications Services, including, but not limited to:

(a) "End Office Switches" which are used to terminate Customer station Links for the purpose of interconnection to each other and to trunks; and

(b) "Tandem Office Switches" which are used to connect and switch trunk circuits between and among other Central Office Switches.

A Central Office Switch may also be employed as a combination End Office/Tandem Office Switch.

1.10 "CCS" means one hundred (100) call seconds.

1.11 "CLASS Features" means certain CCIS-based features available to Customers including, but not limited to: Automatic Call Back; Call Trace; Caller Identification; Call Return and future CCIS-based offerings.

1.12 "Collocation" means an arrangement whereby one Party's (the "Collocating Party") facilities are terminated in its equipment necessary for Interconnection or for access to Network Elements on an unbundled basis which has been installed and maintained at the premises of a second Party (the "Housing Party"). For purposes of Collocation, the "premises" of a Housing Party is limited to the occupied structure or portion thereof in which such Housing Party has the exclusive right of occupancy. Collocation will be "physical," unless physical collocation is not practical for technical reasons or because of space/limitations, in which case virtual collocation will be provided, subject to PUC approval. In "Physical Collocation," the Collocating Party installs and maintains its own equipment in the Housing Party's premises.

1.13 Commission means the New Hampshire Public Utilities Commission ("PUC").

1.14 "Common Channel Interoffice Signaling" or "CCIS" means the signaling system, developed for use between switching systems with stored-program control, in which all of the signaling information for one or more groups of trunks is transmitted over a dedicated high-speed data link rather than on a per-trunk basis and, unless otherwise agreed by the Parties, the CCIS used by the Parties shall be SS7.

1.15 "Cross Connection" means a connection provided pursuant to Collocation at the Digital Signal Cross Connect, Main Distribution Frame or other suitable frame or panel between (i) the Collocating Party's equipment and (ii) the equipment or facilities of the Housing Party.

1.16 "Customer" means a third-Party residence or business that subscribes to Telecommunications Services provided by either of the Parties.

1.17 "Dialing Parity" is As Defined in the Act. As used in this Agreement, Dialing Parity refers to both Local Dialing Parity and Toll Dialing Parity. "Local Dialing Parity" means the ability of Telephone Exchange Service Customers of one LEC to select a provider and make local calls without dialing extra digits. "Toll Dialing Parity" means the ability of Telephone Exchange Service Customers of a LEC to place toll calls (inter or intraLATA) which are routed to a toll carrier (intraLATA or InterLATA) of their selection without dialing access codes or additional digits and with no unreasonable dialing delay.

1.18 "Digital Signal Level" means one of several transmission rates in the time-division multiplex hierarchy.

1.19 "Digital Signal Level 0" or "DS0" means the 64 Kbps zero-level signal in the time-division multiplex hierarchy.

1.20 "Digital Signal Level 1" or "DS1" means the 1.544 Mbps first-level signal in the time-division multiplex hierarchy. In the time-division multiplexing hierarchy of the telephone network, DS1 is the initial level of multiplexing.

1.21 "Digital Signal Level 3" or "DS3" means the 44.736 Mbps third-level in the time-division multiplex hierarchy. In the time-division multiplexing hierarchy of the telephone network, DS3 is defined as the third level of multiplexing.

1.22 "Direct Customer Access Service" or "DCAS" is an electronic interface system provided by NYNEX to facilitate the ordering, provisioning and maintenance of various interconnection arrangements.

1.23 "Exchange Message Record" or "EMR" means the standard used for exchange of Telecommunications message information among Telecommunications providers for billable, non-

billable, sample, settlement and study data. EMR format is contained in Bellcore Practice BR-010-200-010 CRIS Exchange Message Record.

1.24 "Exchange Access" is As Defined in the Act.

1.25 "FCC" means the Federal Communications Commission.

1.26 "Fiber-Meet" means an Interconnection architecture method whereby the Parties physically Interconnect their networks via an optical fiber interface (as opposed to an electrical interface) at a mutually agreed upon location.

1.27 "High-Bit Rate Digital Subscriber Line" or "HDSL" means a transmission technology which transmits up to a DS1-level signal, using any one of the following line codes: 2 Binary / 1 Quaternary ("2B1Q"), Carrierless AM/PM, Discrete Multitone ("DMT"), or 3 Binary / 1 Octet ("3B0").

1.28 "Information Service Traffic" means Local Traffic or IntraLATA Toll Traffic which originates on a Telephone Exchange Service line and which is addressed to an information service provided over a Party's information services platform.

1.29 "Integrated Digital Loop Carrier" means a subscriber loop carrier system which integrates within the switch, at a DS1 level, twenty-four (24) local Link transmission paths combined into a 1.544 Mbps digital signal.

1.30 "Interconnection" is As Described in the Act and refers to the connection of a network, equipment, or facilities, of one carrier with the network, equipment, or facilities of another for the purpose of transmission and routing of Telephone Exchange Service traffic and Exchange Access traffic.

1.31 "Interexchange Carrier" or "IXC" means a carrier that provides, directly or indirectly, InterLATA or intraLATA Telephone Toll Services.

1.32 "Interim Telecommunications Number Portability" or "INP" is As Described in the Act.

1.33 "InterLATA Service" is As Defined in the Act.

1.34 "Integrated Services Digital Network" or "ISDN" means a switched network service that provides end-to-end digital connectivity for the simultaneous transmission of voice and data Basic Rate Interface-ISDN (BRI-ISDN) provides for a digital transmission of two 64 Kbps bearer channels and one 16 Kbps data channel (2B+D).

1.35 "IntraLATA Toll Traffic" means those intraLATA station calls that are not defined as Local Traffic in this Agreement.

1.36 "Local Access and Transport Area" or "LATA" is As Defined in the Act.

1.37 "Local Traffic" means a call which is originated and terminated within a local service area as defined in NHPUC No.77 Tariff, Part A, Section 6. IntraLATA calls originated on a 1+ presubscription basis when available or a casual dialed (10XXX/101XXXX) basis are not considered local traffic.

1.38 "Local Exchange Carrier" or "LEC" is As Defined in the Act.

1.39 "Local Link Transmission" or "Link" means the entire transmission path which extends from the network interface/demarcation point at a Customer's premises to the Main Distribution Frame or other designated frame or panel in a Party's Wire Center which serves the Customer. Links are defined by the electrical interface rather than the type of facility used.

1.40 "Losses" means any and all losses, costs (including court costs), claims, damages (including fines, penalties, and criminal or civil judgments and settlements), injuries, liabilities and expenses (including attorneys' fees).

1.41 "Main Distribution Frame" or "MDF" means the distribution frame of the Party providing the Link used to interconnect cable pairs and line and trunk equipment terminals on a switching system.

1.42 "Meet-Point Billing" means the process whereby each Party bills the appropriate tariffed rate for its portion of a jointly provided Switched Exchange Access Service.

1.43 "Network Element" is As Defined in the Act.

1.44 "Municipal Calling Service" is a calling service arrangement provided on a non-optional basis to municipalities served by more than one exchange or locality where toll charges would normally apply. Calls between exchanges or localities serving the same municipality are not chargeable as toll except for calls originating from coin (public and semi-public) telephones, terminating at public telephones, or made to or from foreign exchange lines unless dial tone for the foreign exchange line is provided from a central office serving some portion of the municipality in which the foreign exchange line service address is located.

1.45 "Network Element Bona Fide Request" means the process described in Exhibit A that prescribes the terms and conditions relating to a Party's request that the other Party provide a Network Element not otherwise provided by the terms of this Agreement.

1.46 "North American Numbering Plan" or "NANP" means the numbering plan used in the United States, Canada, Bermuda, Puerto Rico and certain Caribbean Islands. The NANP format is a 10-digit number that consists of a 3-digit NPA code (commonly referred to as the area code), followed by a 3-digit NXX code and 4-digit line number.

1.47 "Number Portability" is As Defined in the Act.

1.48 "NXX" means the three-digit code which appears as the first three digits of a seven digit telephone number.

1.49 "Party" means either NYNEX or KMC and KMC's, and "Parties" means NYNEX and KMC.

1.50 "Port" means a termination on a Central Office Switch that permits Customers to send or receive Telecommunications over the public switched network, but does not include switch features or switching functionality.

1.51 "POT Bay" or "Point of Termination Bay" means the intermediate distributing frame system which serves as the point of demarcation for collocated interconnection.

1.52 "Rate Center" means the specific geographic point which has been designated by a given LEC as being associated with a particular NPA-NXX code which has been assigned to the LEC for its provision of Telephone Exchange Service. The Rate Center is the finite geographic point identified by a specific V&H coordinate, which is used by that LEC to measure, for billing purposes, distance sensitive transmission services associated with the specific Rate Center. Rate Centers will be identical for each Party until such time as KMC is permitted by an appropriate regulatory body or elects to create its own Rate Centers within an area.

1.53 "Reciprocal Compensation" is As Described in the Act.

1.54 "Route Indexing" means the provision of Interim Number Portability through the use of direct trunks provisioned between end offices of NYNEX and KMC over which inbound traffic to a ported number will be routed.

1.55 "Routing Point" means a location which a LEC has designated on its own network as the homing (routing) point for inbound traffic to one or more of its NPA-NXX codes. The Routing Point is also used to calculate mileage measurements for the distance-sensitive transport element charges of Switched Exchange Access Services. Pursuant to Bell Communications Research, Inc. ("Bellcore") Practice BR 795-100-100 (the "Bellcore Practice"), the Routing Point (referred to as the "Rating Point" in such Bellcore Practice) may be an End Office Switch location or a "LEC Consortium Point of Interconnection." Pursuant to such Bellcore Practice, each "LEC Consortium Point of Interconnection" shall be designated by a common language location identifier (CLLI) code with (x)KD in positions 9, 10, 11, where (x) may be any alphanumeric A-Z or 0-9. The Routing Point must be located within the LATA in which the corresponding NPA-NXX is located. However, Routing Points associated with each NPA-NXX need not be the same as the corresponding Rate Center, nor must there be a unique and separate Routing Point corresponding to each unique and separate Rate Center; provided only that the Routing Point associated with a given NPA-NXX must be located in the same LATA as the Rate Center associated with the NPA-NXX.

1.56 "Service Control Point" or "SCP" means a component of the signaling network that acts as a database to provide information to another component of the signaling network (i.e., Service Switching Point or another SCP) for processing or routing certain types of network calls. A query/response mechanism is typically used in communicating with an SCP.

1.57 "Signaling Transfer Point" or "STP" means a component of the signaling network that performs message routing functions and provides information for the routing of messages between signaling network components. An STP transmits, receives and processes CCIS messages.

1.58 "Single Bill/Multiple Tariff" shall mean that one bill is rendered to the IXC from all LECs who are jointly providing access service. A single bill consists of all rate elements applicable to access services billed on one statement of charges under one billing account number using each Party's appropriate access tariffs. The bill could be rendered by or on behalf of, either of the Parties.

1.59 "Switched Exchange Access Service" means the offering of transmission or switching services to Telecommunications Carriers for the purpose of the origination or termination of Telephone Toll Service. Switched Exchange Access Services include: Feature Group A, Feature Group B, Feature Group D, 800/888 access, and 900 access and their successors or similar Switched Exchange Access services.

1.60 "Synchronous Optical Network" or "SONET" means an optical interface standard that allows inter-networking of transmission products from multiple vendors. The base transmission rate is 51.84 Mbps (OC-1/STS-1) and higher rates are direct multiples of the base rate.

1.61 "Technically Feasible Point" is As Described in the Act.

1.62 "Telecommunications" is As Defined in the Act.

1.63 "Telecommunications Act" means the Telecommunications Act of 1996 and any rules and regulations promulgated thereunder.

1.64 "Telecommunications Carrier" is As Defined in the Act.

1.65 "Telecommunications Service" is As Defined in the Act.

1.66 "Telephone Exchange Service" is As Defined in the Act.

1.67 "Telephone Toll Service" is As Defined in the Act.

1.68 "Wire Center" means an occupied structure or portion thereof in which a Party has the exclusive right of occupancy and which serves as a Routing Point for Switched Exchange Access Service.

## **2.0 INTERPRETATION AND CONSTRUCTION**

All references to Sections, Exhibits and Schedules shall be deemed to be references to Sections of, and Exhibits and Schedules to, this Agreement unless the context shall otherwise require. The headings of the Sections and the terms defined in Schedule 1.0 are inserted for convenience of reference only and are not intended to be a part of or to affect the meaning of this Agreement. Unless the context shall otherwise require, any reference to any agreement, other instrument (including NYNEX or other third Party offerings, guides or practices), statute, regulation, rule or tariff is to such agreement, instrument, statute, regulation, convenience of reference only and is not intended to be a part of or to affect the meaning or rule or tariff as amended and supplemented from time to time (and, in the case of a statute, regulation, rule or tariff, to any successor provision).

## **3.0 SCOPE**

This Agreement sets forth the terms and conditions under which KMC and NYNEX will interconnect their respective networks to enable KMC to provide telecommunications services consistent with the rights and obligations set forth in Section 251 of the Act.

## **4.0 INTERCONNECTION PURSUANT TO SECTION 251(c)(2)**

Subject to the terms and conditions of this Agreement, Interconnection of the Parties' facilities and equipment pursuant to Section 4.0 for the transmission and routing of Telephone Exchange Service traffic and Exchange Access traffic shall be established on or before the corresponding "Interconnection Activation Date" shown for the State of New Hampshire on Schedule 4.0. Schedule 4.0 may be revised and supplemented from time to time upon the mutual agreement of the Parties. Interconnection in the LATA shall be accomplished through either (i) a Fiber-Meet as provided in Section 4.2, (ii) Collocation as provided in Section 12.0, (iii) any other Interconnection method provided by applicable tariff, law, rule or regulation, or (iv) any other Interconnection method to which the Parties may agree.

### **4.1 Scope**

Section 4.0 describes the physical architecture for Interconnection of the Parties' facilities and equipment for the transmission and routing of Telephone Exchange Service Traffic and Exchange Access traffic pursuant to Section 251(c)(2) of the Act. Sections 5.0 and 6.0 prescribe the specific logical trunk groups (and traffic routing parameters) which will be configured over the physical connections described in this Section 4.0 related to the transmission and routing of Telephone Exchange Service Traffic and Exchange Access traffic, respectively. Other trunk groups, as described in this Agreement, may be configured using this architecture.

### **4.2 Physical Architecture**

KMC and NYNEX shall configure a joint network configuration and grooming plan ("Joint Grooming Plan" as defined in Section 8.1). Both Parties will endeavor to provision a diverse, reliable network that incorporates the most practicable technologies.

4.2.1 Network architecture under the Joint Grooming Plan shall be established under the following minimum criteria:

(a) The Parties shall establish physical interconnection points at the locations designated on Schedule 4.0. Points on the KMC network from which KMC will provide transport and termination of traffic are designated as the KMC Interconnection Points ("K-IP"). Points on the NYNEX network from which NYNEX will provide transport and termination of traffic are designated as the NYNEX Interconnection Points ("N-IP"). Additional interconnection points may be established by mutual agreement of both parties at any technically feasible points consistent with Act.

(b) Each Party will provide owned or leased facilities to deliver traffic originated on its respective networks to the designated interconnection points of the other Party's network. The Party terminating the traffic will be responsible for all transport and termination of calls beyond the designated interconnection point.

4.2.2 The Parties may implement one of the following configurations as part of the Joint Grooming Plan, unless an alternative plan is mutually agreed to by both parties.

(a) a jointly maintained SONET network, in which each party is responsible for the procurement, installation, and maintenance of mutually agreed-upon Optical Line Terminating Multiplexer ("OLTM") equipment at its respective premises. Additionally, each party will be responsible for the installation and maintenance of one-half of a fiber optic ring;

(b) interconnection of networks at an optical level via a Fiber Meet or other comparable means.

4.2.3 The Parties agree to allow interim alternatives to the architecture described in Section 4.2, utilizing electrical hand-offs, provided the Parties mutually develop and agree on a plan to fully transition to an arrangement reflective of Section 4.2 within one hundred and eighty (180) days following the Interconnection Activation Date listed in Schedule 4.0.

#### 4.3 Technical Specifications

4.3.1 KMC and NYNEX shall work cooperatively to install and maintain a reliable network. KMC and NYNEX shall exchange appropriate information (e.g., maintenance contact numbers, network information, information required to comply with law enforcement and other security agencies of the Government and such other information as the Parties shall mutually agree) to achieve this desired reliability.



4.3.2 KMC and NYNEX shall work cooperatively to apply sound network management principles by invoking network management controls to alleviate or to prevent congestion.

4.3.3 The publication 'Bellcore Technical Publication TR-INS-000342; High Capacity Digital Special Access Service, Transmission Parameter Limits and Interface Combinations' describes the practices, procedures, specifications and interfaces generally utilized by NYNEX and is referenced herein to assist the Parties in meeting their respective Interconnection responsibilities related to Electrical/Optical Interfaces.

## **5.0 TRANSMISSION AND ROUTING OF TELEPHONE EXCHANGE SERVICE TRAFFIC PURSUANT TO SECTION 251(c)(2)**

### **5.1 Scope of Traffic**

Section 5.0 prescribes parameters for trunk groups (the "Traffic Exchange Trunks") to be effected over the Interconnections specified in Section 4.0 for the transmission and routing of Local Traffic and IntraLATA Toll Traffic between the Parties' respective Telephone Exchange Service Customers and where such traffic is not presubscribed for carriage by a third Party carrier nor carried by a third Party carrier as casual dialed (10XXX and 101XXXX) traffic.

### **5.2 Switching System Hierarchy**

5.2.1 For purposes of this Section 5.0, each of the following Central Office Switches shall be designated as a "Primary Switch":

- (a) Each Access Tandem NYNEX operates in the LATA;
- (b) The initial switch KMC employs to provide Telephone Exchange Service in the LATA;
- (c) Any Access Tandem KMC may establish for provision of Exchange Access in the LATA;
- (d) Any additional switch KMC may subsequently employ to provide Telephone Exchange Service in the LATA which KMC may at its sole option designate as a Primary Switch; provided that the total number of KMC Primary Switches for a LATA may not exceed the total number of NYNEX Primary Switches for that LATA. To the extent KMC chooses to designate any additional switch as a Primary Switch, it shall provide notice to NYNEX of such designation at least ninety (90) days in advance of the date on which KMC activates such switch as a Primary Switch; and

- (e) Any additional tandem switch NYNEX may subsequently employ to provide access and/or sector traffic capacity within a LATA. Traffic destined to sub-tending Secondary Switches routed via such a tandem(s) would be determined by network requirements and notice made available to all LECs at least one hundred and eighty (180) days prior to service introduction.

5.2.2 Each Central Office Switch operated by the Parties which is not designated as a Primary Switch pursuant to Section 5.2.1 shall be designated as a "Secondary Switch".

5.2.3 For purposes of KMC routing traffic to NYNEX, sub-tending arrangements between NYNEX Primary Switches and NYNEX Secondary Switches shall be the same as the Access Tandem/End Office sub-tending arrangements which NYNEX maintains for those switches. For purposes of NYNEX routing traffic to KMC, sub-tending arrangements between KMC Primary Switches and KMC Secondary Switches shall be the same as the Access Tandem/End Office sub-tending arrangements which KMC maintains for those switches.

### 5.3 Trunk Group Architecture and Traffic Routing

The Parties shall jointly engineer and configure Traffic Exchange Trunks over the physical Interconnection arrangements for the transport and termination of Telephone Exchange Service Traffic, as follows:

5.3.1 The Parties shall initially configure a separate two-way trunk group as a direct transmission path between each KMC Primary Switch and each NYNEX Primary Switch.

5.3.2 Notwithstanding anything to the contrary in this Section 5.0, if the individual trunk group volumes between any two Central Office Switches (whether Primary-Primary, Primary-Secondary, or Secondary-Secondary) consistently exceed the blocking parameters established in the Joint Grooming Plan, the Parties will augment such trunk groups so as to achieve established service objectives. Such augmentation shall be consistent with established network design methods using modular trunk engineering techniques where practical.

5.3.3 NYNEX and KMC will allow each other to route their intrastate and interstate switched access service traffic over the Traffic Exchange Trunk Groups, pursuant to the rates, terms and conditions specified in each Party's effective intrastate and interstate access tariffs or at generally available and prevailing rates, terms and conditions.

### 5.4 Signaling

5.4.1 Where available, CCIS signaling shall be used by the Parties to set up calls between the Parties' Telephone Exchange Service networks. If CCIS signaling is unavailable, MF (Multi-Frequency) signaling shall be used by the Parties. Each Party shall charge the other Party

equal and reciprocal rates for CCIS signaling in accordance with applicable tariffs. During the term of this Agreement neither Party shall charge the other Party additional usage-sensitive rates for SS7 queries made for Local Traffic.

5.4.2 The publication 'Bellcore Special Report SR-TSV-002275, BOC Notes on the LEC Networks - Signaling' describes the practices, procedures and specifications generally utilized by NYNEX for signaling purposes and is referenced herein to assist the Parties in meeting their respective Interconnection responsibilities related to signaling.

5.4.3 The Parties will cooperate on the exchange of Transactional Capabilities Application Part (TCAP) messages to facilitate interoperability of CCIS-based features between their respective networks, including all CLASS features and functions, to the extent each Party offers such features and functions to its Customers. All CCIS signaling parameters will be provided including, calling Party number (CPN), originating line information (OLI), calling Party category and charge number.

5.4.4 Upon request, each Party shall provide trunk groups where available that are configured utilizing the B8ZS ESF protocol for 64 Kbps clear channel transmission to allow for ISDN interoperability between the Parties' respective networks.

## 5.5 Grades of Service

The Parties shall initially engineer and shall jointly monitor and enhance all trunk groups consistent with the Joint Grooming Plan.

## 5.6 Measurement and Billing

5.6.1 For billing purposes, each Party shall pass Calling Party Number (CPN) information on each call carried over the Local/IntraLATA Trunks Trunks; provided that so long as the percentage of calls passed with CPN is greater than ninety percent (90%), all calls exchanged without CPN information shall be billed as either Local Traffic or IntraLATA Toll Traffic in direct proportion to the minutes of use of calls exchanged with CPN information.

5.6.2 Measurement of billing minutes (except for originating 800/888 calls) shall be in actual conversation seconds. Measurement of billing minutes for originating 800/888 calls shall be in accordance with applicable tariffs.

5.6.3 Where CPN is not available in a LATA for greater than ten percent (10%) of the traffic, the Party sending the traffic shall provide factors to determine the jurisdiction, as well as local vs. toll distinction, of the traffic. Such factors shall be supported by call record details that will be made available for review upon request. Where Parties are passing CPN but the receiving Party is not properly receiving or recording the information, the Parties shall cooperatively work to correctly identify the traffic, and establish a mutually agreeable mechanism that will prevent improperly rated traffic. Notwithstanding this, if any improperly rated traffic occurs, the Parties agree to reconcile it.

5.7 Reciprocal Compensation Arrangements -- Section 251(b)(5).

5.7.1 Reciprocal Compensation only applies to the transport and termination of Local Traffic billable by NYNEX or KMC which a Telephone Exchange Service Customer originates on NYNEX's or KMC's network for termination on the other Party's network except as provided in Section 5.7.6 below.

5.7.2 The Parties shall compensate each other for transport and termination of Local Traffic in an equal and symmetrical manner at the rate provided in the Pricing Schedule. This rate is to be applied at the K-IP for traffic delivered by NYNEX, and at the N-IP for traffic delivered by KMC. No additional charges, including port or transport charges, shall apply for the termination of Local Traffic delivered to the K-IP or the N-IP. When Local Traffic is terminated over the same trunks as IntraLATA or InterLATA Toll, any port or transport or other applicable access charges related to the toll traffic shall be prorated to be applied only to the toll traffic.

5.7.3 The Reciprocal Compensation arrangements set forth in this Agreement are not applicable to Switched Exchange Access Service or to any other IntraLATA calls originated on a third Party carrier's network on a 1+ presubscribed basis or a casual dialed (10XXX or 101XXXX) basis. All Switched Exchange Access Service and all IntraLATA Toll Traffic shall continue to be governed by the terms and conditions of the applicable federal and state tariffs.

5.7.4 Each Party shall charge the other Party its effective applicable tariffed intraLATA switched access rates for the transport and termination of all IntraLATA Toll Traffic.

5.7.5 The rates for termination of Local Traffic are set forth in the Pricing Schedule which is incorporated by reference herein.

5.7.6 Compensation for transport and termination of all traffic which has been subject to performance of INP by one Party for the other Party pursuant to Section 13.0 shall be as specified in Section 13.6.

5.7.7 When either Party delivers seven (7) or ten (10) digit translated intraLATA 800/888 service to the other Party for termination, the originating Party shall provide the terminating Party with billing records in industry standard format (EMR) if required by the terminating Party. The originating Party may bill the terminating Party for the delivery of the traffic at local reciprocal compensation rates. The terminating Party may not bill the originating Party reciprocal compensation under this Agreement. The Party that is providing the 800/888 service shall pay the database inquiry charge per the Pricing Schedule to the Party that performed the database inquiry.

5.8 Municipal Calling Service

The Parties shall work cooperatively to facilitate each Party's public service obligations to provide its end user customers with toll free municipal calling service ("MCS").

Such cooperation shall include the sharing of certain account and toll free municipal (TFM) codes on a daily or other mutually agreeable basis and working with other industry participants to satisfactorily resolve MCS related measurement and billing issues associated with implementation of IntraLATA presubscription.

## **6.0 TRANSMISSION AND ROUTING OF EXCHANGE ACCESS TRAFFIC PURSUANT TO SECTION 251(c)(2)**

### **6.1 Scope of Traffic**

Section 6.0 prescribes parameters for certain trunk groups ("Access Toll Connecting Trunks") to be established over the Interconnections specified in Section 4.0 for the transmission and routing of Exchange Access traffic between KMC Telephone Exchange Service Customers and Interexchange Carriers ("IXCs").

### **6.2 Trunk Group Architecture and Traffic Routing**

6.2.1 The Parties shall jointly establish Access Toll Connecting Trunks by which they will jointly provide tandem-transported Switched Exchange Access Services to Interexchange Carriers to enable such Interexchange Carriers to originate and terminate traffic from/to KMC's Customers.

6.2.2 Access Toll Connecting Trunks shall be used solely for the transmission and routing of Exchange Access to allow KMC's Customers to connect to or be connected to the interexchange trunks of any Interexchange Carrier which is connected to an NYNEX Access Tandem.

6.2.3 The Access Toll Connecting Trunks shall be two-way trunks connecting an End Office Switch KMC utilizes to provide Telephone Exchange Service and Switched Exchange Access in a given LATA to an Access Tandem Switch NYNEX utilizes to provide Exchange Access in such LATA.

6.2.4 The Parties shall jointly determine which NYNEX Access Tandem(s) will be sub-tended by each KMC End Office Switch. KMC end office switch shall subtend the NYNEX Access Tandem that would have served the same rate center on NYNEX's network. Alternative configurations will be discussed as part of the Joint Grooming Plan.

### **6.3 Meet-Point Billing Arrangements**

6.3.1 Meet-Point Billing arrangements between the Parties for jointly-provided Switched Exchange Access Services on Access Toll Connecting Trunks will be governed by the terms and conditions of a mutually agreeable arrangement, which the Parties will cooperatively work to develop.

6.3.2 Until and unless changed by the FCC, on a going forward basis, KMC shall retain one hundred percent (100%) of the Residual Interconnection Charge, in instances in which KMC provides the End Office switching.

## **7.0 TRANSPORT AND TERMINATION OF OTHER TYPES OF TRAFFIC**

### **7.1 Information Services Traffic**

7.1.1 If and when Information Services become available in the State of New Hampshire, the Parties shall work cooperatively with one another to develop a mutually agreeable compensation arrangement for the provision of such services.

### **7.2 Tandem Transient Service ("Transit Service")**

7.2.1 "Transit Service" means the delivery of certain traffic between KMC and a LEC by NYNEX over the Local/IntraLATA/InterLATA Trunks. The following traffic types will be delivered: (i) Local Traffic or IntraLATA Toll Traffic originated from KMC to such LEC and (ii) Local Traffic or IntraLATA Toll Traffic originated from such LEC and terminated to KMC where NYNEX carries such traffic pursuant to the PUC's primary toll carrier plan or other similar plan.

7.2.2 Subject to Section 7.2.4, the Parties shall compensate each other for Transit Service as follows:

- (a) KMC shall pay NYNEX for Local Traffic KMC originated over the Transit Service at the rate specified in Pricing Schedule plus any additional charges or costs such terminating LEC imposes or levies on NYNEX for the delivery or termination of such traffic, including any switched access charges;
- (b) NYNEX shall pay KMC for Local, InterLATA, or IntraLATA Toll Traffic terminated to KMC from such LEC at the appropriate reciprocal compensation rates described in Section 5.7, InterLATA access rates, or at KMC's applicable switched access rates or local termination rate, whichever is appropriate.

7.2.3 While the Parties agree that it is the responsibility of KMC to enter into arrangements to deliver Local Traffic to the LECs, they acknowledge that such arrangements are not currently in place and an interim arrangement is necessary to ensure traffic completion. Accordingly, until the earlier of (i) the date on which KMC has entered into an arrangement with such LEC to deliver Local Traffic to/from KMC or (ii) one-hundred and eighty (180) days after the Interconnection Activation Date, NYNEX will deliver and KMC will terminate Local Traffic originated from such LEC without charge to one another.

7.2.4 NYNEX expects that all networks involved in transit traffic will deliver each call to each involved network with CCIS and the appropriate Transactional Capabilities Application Part ("TCAP") message to facilitate full interoperability of those services supported by NYNEX as noted in Section 1.12 and billing functions. In all cases, KMC is responsible to follow the Exchange Message Record ("EMR") standard and exchange records with both NYNEX and the terminating LEC to facilitate the billing process to the originating network.

7.2.5 For purposes of this Section 7.2, NYNEX agrees that it shall make available to KMC, at KMC's sole option, any transiting arrangement NYNEX offers to another LEC at the same rates, terms and conditions provided to such other LEC.

### 7.3 Dedicated Transit Service

7.3.1 "Dedicated Transit Service" provides for the dedicated connection between a KMC collocation arrangement established pursuant to applicable tariffs and/or license agreements at a NYNEX premise and a collocation arrangement of a third Party carrier that maintains a collocation arrangement at the same premises. Dedicated Transit Service shall be provided using a cross-connection (dedicated connection) using suitable NYNEX-provided cable or transmission facilities or any other mutually agreed upon arrangement.

7.3.2 The carrier that requests the Dedicated Transit Service shall be the customer of record for both ends of the service in terms of ordering, provisioning, maintenance, and billing. Alternative arrangements may be utilized if agreed upon by all three Parties.

### 7.4 E911 Arrangement

7.4.1 KMC will interconnect at the meet point designated in Schedule 4.0 for the provision of E911 services and for access to all sub-tending Public Safety Answering Points ("PSAPs").

7.4.2 Path and route diverse interconnections for E911 shall be made at the Concord and Manchester tandems. KMC shall provision, install and maintain four trunks from each End Office(s) or Host End Office(s) to the meet point between NYNEX and KMC. Two trunks shall be routed to the primary E911 tandem in Concord and two trunks shall be routed to the secondary E911 tandem in Manchester for a total of four trunks from each End Office or Host End Office. KMC agrees to route all 911 calls received by its exchanges to the E911 network in accordance with the following routing option: first attempt, the primary high usage trunk group to the Concord E911 tandem; second attempt, the intermediate high usage trunks to the Manchester E911 tandem; third and final attempt, if technically feasible, to a predetermined local 7-digit emergency number as specified by the New Hampshire Bureau of Emergency Communications ("NHBE").

7.4.3 NYNEX will provide KMC with an electronic interface through which KMC shall input and provide a daily update of E911 database information related to appropriate KMC customers. NYNEX will provide KMC with the Master Street Address Guide (MSAG) so

that KMC can ensure the accuracy of the data transfer. Additionally, NYNEX shall assist KMC in identifying the appropriate person in each municipality for the purpose of obtaining the ten-digit Subscriber number of each PSAP.

7.4.4 KMC will comply with all applicable rules and regulations pertaining to the provision of E911 services in the State of New Hampshire.

7.4.5 KMC shall input E911 database information using NYNEX PSALI to exchange data. NYNEX shall identify and make available electronically all telephone records processed with errors by 8:00 AM of the next business day to KMC in a file format for correction by KMC by the next business day. Error-free telephone numbers shall follow the same Tandem updating process as NYNEX records.

7.4.6 NYNEX agrees to provide KMC at no cost, access to print capability with respect to such E911 data base information on a monthly basis.

7.4.7 The Parties recognize that the connection of KMC's network to the State E911 system (and of new entrant local exchange carrier networks in general) will cause KMC (and other new entrants) and NYNEX, as the State's E911 Service provider, to incur certain recurring and non-recurring costs that may not have been contemplated when the State solicited bids and subsequently awarded the E911 contract. Consequently, at this time neither KMC nor NYNEX have a fair or viable means to recoup these new costs. Accordingly, the Parties agree to petition the NHBEC and/or the PUC as appropriate to address cost recovery and other related issues associated with the network provisioning, installation, and maintenance of E911 trunks and with the input of customer records into the E911 database. Until such time as the state determines and funds a cost recovery mechanism to reimburse KMC and NYNEX for the costs of maintaining new/additional E911 facilities, the Parties agree to provision, install and maintain the trunking arrangements described in Section 7.4.2. NYNEX and KMC agree that this is not a general offering by either Party, rather it is intended to enable NYNEX and KMC to use their best efforts to facilitate the prompt, robust, reliable and efficient interconnection of KMC systems to the E911 platforms. NYNEX and KMC reasonably expect to be reimbursed for the costs of this interim arrangement.

7.4.8 Neither KMC nor NYNEX shall in any way be liable for any error or omission in the E911 data base information which occurs as a result of any act, error or omission of municipalities.

7.4.9 KMC shall not be liable for any error or omission in the E911 data base information beyond the amount paid to KMC by NYNEX for the omitted or incorrect information. KMC shall not be liable for any error, mistake, omission, interruption, failure, delay, or defect in the installation or maintenance of the trunks beyond the amount paid to KMC by NYNEX for the defective installation or maintenance of the trunk or trunks. KMC shall not be liable for any error, mistake, omission, interruption, failure, delay, or defect in KMC's routing of 911 calls to the E911 network beyond the amount paid to KMC by NYNEX for the defective routing.



7.4.10 Neither KMC nor NYNEX shall in any way be liable for any special, exemplary, punitive, enhanced compensatory, incidental, indirect or consequential loss or damage, and such damages are hereby expressly excluded.

7.4.11 In accordance with New Hampshire RSA 508:12 a, III, KMC, its shareholders, officers, and agents, shall not be liable in any suit for civil damages when KMC in good faith and without willful or wanton negligence receives, develops, collects or processes information for the E911 data base, relays or transfers E911 services or provides emergency telephone communications for ambulance, police and fire departments.

7.4.12 In accordance with New Hampshire RSA 508:12 a, III, NYNEX, its shareholders, officers, and agents, shall not be liable in any suit for civil damages when NYNEX in good faith and without willful or wanton negligence receives, develops, collects or processes information for the E911 data base, relays or transfers E911 services or provides emergency telephone communications for ambulance, police and fire departments.

7.4.13 Each Party agrees to use the E911 data base information supplied by the other Party only for the provision of E911 services. Both Parties further agree that each Party shall maintain the confidentiality of E911 data base information as required by applicable law.

## **8.0 JOINT NETWORK CONFIGURATION AND GROOMING PLAN; AND INSTALLATION, MAINTENANCE, TESTING AND REPAIR.**

8.1 Joint Network Configuration and Grooming Plan. On or before August 1, 1997, KMC and NYNEX shall jointly develop a grooming plan (the "Joint Grooming Plan") which shall define and detail, inter alia,

- (a) agreement on Physical Architecture consistent with the guidelines defined in Section 4.0;
- (b) standards to ensure that Interconnection trunk groups experience a grade of service, availability and quality which is comparable to that achieved on interoffice trunks within NYNEX's network and in accord with all appropriate relevant industry-accepted quality, reliability and availability standards;
- (c) the respective duties and responsibilities of the Parties with respect to the administration and maintenance of the trunk groups, including but not limited to standards and procedures for notification and discoveries of trunk disconnects;
- (d) disaster recovery provision escalations; and
- (e) such other matters as the Parties may agree.

The initial mutual interconnection is not dependent upon completion of the Joint Grooming Plan.

8.2 Installation, Maintenance, Testing and Repair. NYNEX's standard intervals as set forth in Schedule 8.2 attached will be utilized in connection with the establishment of all interconnection trunking arrangements between the Parties. KMC shall meet the same intervals for comparable installations, maintenance, joint testing, and repair of its facilities and services associated with or used in conjunction with Interconnection. If either Party is unable to meet the intervals specified herein, that Party shall notify the other and will negotiate additional intervals in good faith.

## **9.0 UNBUNDLED ACCESS – SECTION 251(c)(3)**

### **9.1 Local Link Transmission Types**

Subject to Section 9.5, NYNEX shall allow KMC to access the following Link types unbundled from local switching and local transport in accordance with the terms and conditions set forth in this Section 9.

9.1.1 "2-Wire Analog Voice Grade Links" or "Analog 2W" which support analog transmission of 300-3000 Hz, repeat link start, link reverse battery, or ground start seizure and disconnect in one direction (toward the End Office Switch), and repeat ringing in the other direction (toward the Customer). Analog 2W include Links sufficient for the provision of PBX trunks, pay telephone lines and electronic key system lines.

9.1.2 "4-Wire Analog Voice Grade Links" or "Analog 4W" which support transmission of voice grade signals using separate transmit and receive paths and terminate in a 4-wire electrical interface.

9.1.3 "2-Wire ISDN Digital Grade Links" or "BRI ISDN" which support digital transmission of two 64 Kbps bearer channels and one 16 Kbps data channel. BRI ISDN is a 2B+D Basic Rate Interface-Integrated Services Digital Network (BRI-ISDN) Link which will meet national ISDN standards and conform to ANSI T1.601-1992 & T1E1.4 90-004R3.

9.1.4 DS-1 Digital Grade Link provides a channel which provides 1.544 Mbps digital transmission path between a Customer premises and a NYNEX central office, and is capable of operating in a full duplex, time division (digital) multiplexing mode. A DS-1 Digital Grade Link provides transmission capacity equivalent to 24 voice grade channels with associated signaling, twenty-four 56 Kbps digital channels when in band signaling is provided or twenty-four 64 Kbps channels with the selection of the Clear Channel signaling option.

9.1.5 Extended Link service is a channel which enables KMC when it is physically collocated in a given NYNEX central office to access unbundled links served from another NYNEX central office. Extended Link service is a designed service (similar to special access and private line services) which requires detailed engineering to assure that the service provided conforms to specific transmission performance standards unique to the specific service, e.g., voice grade DS0, DS1 and DS3. Extended Links will not be available until March 1, 1997.

9.1.6 Links will be offered on the terms and conditions specified herein and on such other terms in applicable tariffs that are not inconsistent with the terms and conditions set forth herein. NYNEX shall make Links available to KMC at the rates specified by the Commission, as amended from time to time, subject to the provisions of Section 9.9 or as subsequently determined by the PUC.

## 9.2 ADSL and HDSL

The Parties acknowledge that ADSL is not currently deployed for use in the NYNEX network. NYNEX is conducting a technical trial that is due to be completed by the end of the first quarter 1997 testing ADSL technology. NYNEX will share its interim findings and conclusion and consult with KMC regarding the issues related to deploying ADSL in NYNEX's network. If the issues surrounding deployment of ADSL in NYNEX's network are satisfactorily resolved and ADSL is deployed, NYNEX shall allow KMC to access ADSL Links unbundled from local switching and local transport in accordance with the terms and conditions set forth in this Section 9.0.

9.2.1 "2-Wire ADSL-Compatible Link" or "ADSL 2W" is a transmission path which facilitates the transmission of up to a 6 Mbps digital signal downstream (toward the Customer) and up to a 640 Kbps digital signal upstream (away from the Customer) while simultaneously carrying an analog voice signal. An ADSL-2W is provided over a 2-Wire non-loaded twisted copper pair provisioned using revised resistance design guidelines and meeting ANSI Standard T1.413-1995-007R2. An ADSL-2W terminates in a 2-wire electrical interface at the Customer premises and at the NYNEX Central Office frame. ADSL technology can only be deployed over Links which extend less than 18 Kft. from NYNEX's Central Office. ADSL compatible Links are only available where existing copper facilities can meet the ANSI T1.413-1995-007R2 specifications.

9.2.2 "2-Wire HDSL-Compatible Link" or "HDSL 2W" is a transmission path which facilitates the transmission of a 768 Kbps digital signal over a 2-Wire non-loaded twisted copper pair meeting the specifications in ANSI T1E1 Committee Technical Report Number 28 / T1E1.4/92-002R3. HDSL compatible Links are available only where existing copper facilities can meet the T1E1 Technical Report Number 28 specifications.

9.2.3 "4-Wire HDSL-Compatible Link" or "HDSL 4W" is a transmission path which facilitates the transmission of a 1.544 Mbps digital signal over two 2-Wire non-loaded twisted copper pairs meeting the specifications in ANSI T1E1 Committee Technical Report Number 28. HDSL compatible Links are available only where existing copper facilities can meet the specifications.

## 9.3 Port Types

NYNEX shall make available to KMC unbundled Ports in accordance with the following terms and conditions and at the rates specified in the Pricing Schedule.

### 9.3.1 End Office Switching Line Port

NYNEX agrees to unbundle end office switching to enable KMC to interconnect its links (i.e., links provided by KMC through its own link facilities) to a central office switching point or "line port" that provides access to NYNEX's exchange services. The line port element will enable KMC to interconnect at the NYNEX end office via a physical collocation arrangement, or such other alternative interconnection arrangement(s) as the Parties may mutually agree, or FCC rules, the Act, or PUC rules may otherwise require.<sup>1</sup>

### 9.4 Private Lines, Special Access and Switched Transport

NYNEX shall provide unbundled private lines, special access and switched local transport from the trunk side of its switches in accordance with the terms and conditions of and at the rates specified in applicable tariffs. NYNEX will file an amendment with the PUC to unbundle local transport in its intrastate switched access tariff within one hundred and twenty (120) days of this Agreement being effective.

### 9.5 Limitations on Unbundled Access

9.5.1 Unless otherwise allowed by the FCC or Commission, KMC may not cross-connect a NYNEX-provided Link to a NYNEX-provided Port but instead shall purchase a network access line under applicable tariffs.

9.5.2 NYNEX shall only be required to provide Links and Ports where such Links and Ports are available.

9.5.3 KMC shall access NYNEX's unbundled Network Elements specifically identified in this Agreement via Collocation in accordance with Section 12 at the NYNEX Wire Center where those elements exist and each Link or Port shall be delivered to KMC's Collocation node by means of a Cross Connection which in the case of Links, is included in the rates set forth in the Pricing Schedule.

9.5.4 NYNEX shall provide KMC access to its unbundled Links at each of NYNEX's Wire Centers. In addition, if KMC requests one or more Links serviced by Integrated Digital Link Carrier or Remote Switching technology deployed as a Link concentrator, NYNEX shall, where available, move the requested Link(s) to a spare, existing physical Link at no charge to KMC. If, however, no spare physical Link is available, NYNEX shall within three (3) Business days of KMC's request notify KMC of the lack of available facilities. KMC may then at its discretion make a Network Element Bona Fide Request to NYNEX to provide the unbundled Link through the demultiplexing of the integrated digitized Link(s). KMC may also make a Network Element Bona Fide Request for access to unbundled Links at the Link concentration site point. Notwithstanding anything to the contrary in this Agreement, the provisioning intervals set

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<sup>1</sup> NYNEX will file a tariff to provide End Office Switching Line Ports that will include service descriptions and responsibilities of all parties.

forth in Section 9.7 and the Performance Interval Dates and Performance Criteria set forth in Schedule 27.0 shall not apply to unbundled Links provided under this Section 9.5.4.

9.5.5 If KMC orders a Link type and the distance requested on such Link exceeds the transmission characteristics as referenced in the corresponding Technical Reference specified below, distance extensions may be required and additional rates and charges shall apply as set forth on the Pricing Schedule.

Link Type	Technical Reference/Limitation
Electronic Key Line	2.5 miles
ISDN	Bellcore TA-NWT-000393
HDSL 2W	T1E1 Technical Report Number 28
HDSL 4W	T1E1 Technical Report Number 28
ADSL 2W	ANSI T1.413-1995 Specification

#### 9.6 Availability of Other Network Elements on an Unbundled Basis

9.6.1 NYNEX shall, upon request of KMC, at any technically feasible point provide to KMC access to its Network Elements on an unbundled basis for the provision of KMC Telecommunications Service. Any request by KMC for access to an NYNEX Network Element that is not already available shall be treated as a Network Element Bona Fide Request. KMC shall provide NYNEX access to its Network Elements as mutually agreed by the Parties or as required by the Act, PUC or FCC.

9.6.2 A Network Element obtained by one Party from the other Party under this Section 9.6 may be used in combination with the facilities of the requesting Party only to provide a Telecommunications Service, including obtaining billing and collection, transmission, and routing of the Telecommunications Service.

9.6.3 Absent the mutual consent of both Parties, neither Party shall not be required to provide a proprietary Network Element to the other Party except as required by the Act, PUC or FCC.

#### 9.7 Provisioning of Unbundled Links

The following coordination procedures shall apply for new unbundled Links and the conversions of "live" Telephone Exchange Services to unbundled Links (herein after referred to as "hot cuts"):

9.7.1 KMC shall request unbundled Links from NYNEX by delivering to NYNEX a valid electronic transmittal Service Order using the NYNEX electronic ordering platform (as cooperatively designed and implemented to meet the minimum requirements for information exchange needed to order and provision services to certified local exchange carriers and enhanced to support industry standards as developed for interconnection services) or another mutually agreed upon system. Within two (2) business days of NYNEX's receipt of a Service

Order, NYNEX shall provide KMC the firm order commitment ("FOC") date according to the applicable Performance Interval Dates set forth in Schedule 27.0 by which the Link(s) covered by such Service Order will be installed.

9.7.2 NYNEX agrees to accept from KMC at the time the service request is submitted for scheduled conversion of hot cut unbundled link orders, a desired date and time (the "Scheduled Conversion Time") in the "A.M." (12:01 A.M. to 12:00 noon) or "P.M." (12:01 P.M. to 12:00 midnight) (as applicable, the "Conversion Window") for the hot cut.

9.7.3 NYNEX shall test for KMC dial tone at the POT bay by testing through the tie cable provisioned between the NYNEX main distributing frame and the KMC expanded interconnection node forty eight (48) hours prior to the Scheduled Conversion Time.

9.7.4 Not less than one hour prior to the Scheduled Conversion Time, either Party may contact the other Party and unilaterally designate a new Scheduled Conversion Time (the "New Conversion Time"). If the New Conversion Time is within the Conversion Window, no charges shall be assessed on or waived by either Party. If, however, the New Conversion Time is outside of the Conversion Window, the Party requesting such New Conversion Time shall be subject to the following:

If NYNEX requests the New Conversion Time, the applicable Service Order Charge shall be waived; and

If KMC requests the New Conversion Time, KMC shall be assessed a Service Order Charge in addition to the Service Order Charge that will be incurred for the New Conversion Time.

9.7.5 Except as otherwise agreed by the Parties for a specific conversion, such as large cutovers of ten lines or more that have negotiated intervals, the Parties agree that the time interval expected from disconnection of NYNEX's "live" Telephone Exchange Service to the connection of an unbundled Network Element at the KMC Collocation node's POT bay will be accomplished within a window of time as detailed following: Between the effective date of this Agreement and 5/31/97 one hundred and twenty (120) minutes; between 6/1/97 and 12/31/97 ninety (90) minutes; from 1/1/98 through the end of this agreement sixty (60) minutes or less. If a conversion interval exceeds sixty (60) minutes and such delay is caused solely by NYNEX (and not by a contributing Delaying Event (as defined in Section 27.4)), NYNEX shall waive the applicable tariffed Service Order Charge for such element. If KMC has ordered INP with the installation of a Link, NYNEX will coordinate the implementation of INP with the Link conversion during with the above stated intervals at no additional charge.

9.7.6 If KMC requests or approves a NYNEX technician to perform services in excess of or not otherwise contemplated by the Service Order charge NYNEX may charge KMC for any additional and reasonable labor charges to perform such services.

9.7.7 If as the result of end user actions, (e.g., Customer not ready [CNR]), NYNEX cannot complete requested work activity when a technician has been dispatched to the site KMC will be assessed a non-recurring charge associated with this visit. This charge will be the sum of the Service Order Charge as specified in Section 9.7.8 and Premises Visit Charge as specified in NHPUC- No. 77, Part M, Section 1.3.1.

9.7.8 Until such time as the Commission approves a non-recurring unbundled network element Service Order Charge(s), an interim non-recurring Service Order charge shall be assessed on a per link (or other unbundled network element) basis. The interim Service Order rate shall equal the Service and Equipment Charge to install a business network access line, as specified in NHPUC - No. 77 Part M Section 1.5.2

#### 9.8 Maintenance of Unbundled Network Elements

If (i) KMC reports to NYNEX a Customer trouble, (ii) KMC requests a dispatch, (iii) NYNEX dispatches a technician, and (iv) such trouble was not caused by NYNEX's facilities or equipment in whole or in part, then KMC shall pay NYNEX a charge of \$60.00 and \$37.50 per half hour for time associated with said dispatch beyond the first 1/2 hour. In addition this charge also applies when the end user contact as designated by KMC is not available at the appointed time. KMC accepts responsibility for initial trouble isolation and providing NYNEX with appropriate dispatch information based on their test results. If as the result of KMC's instructions, NYNEX is erroneously requested to dispatch within a NYNEX Central Office or to a POT Bay ("dispatch in"), a charge of \$100.00 per occurrence will be assessed to KMC by NYNEX.

#### 9.9 True-Up of Monthly Unbundled Link Charges for New Hampshire

9.9.1 NYNEX and KMC agree to provide for a true-up for all links (SVGALs) purchased by KMC through the end of the initial term of this Agreement up to:

a) the date of the Initial Link Rate Decision, as defined in Section 9.9.3; and for

b) the date of the Final Link Rate Decision, as defined in Section 9.9.4.

9.9.2 "Current Monthly Rate" is \$23.00 per link.

9.9.2.1 Notwithstanding the foregoing paragraph 9.9.2, nothing in this Agreement shall be construed to imply that KMC agrees that the Link charges set forth in Section 9.9.2 is reasonable or appropriate charge for unbundled Links.

9.9.3 "Initial Link Rate Decision" is any decision of the PUC establishing any interim monthly link rates which is issued subsequent to the date of the execution of this Agreement and before the expiration of the initial term of this Agreement.

9.9.4 "Final Link Rate Decision" represents any of the following which occur during the initial term of this Agreement:

- a) a decision of the PUC establishing permanent monthly link rates for New Hampshire which is issued subsequent to either the date of this Agreement or the Initial Link Rate Decision as modified by any rulings by the FCC or appeals ruled upon in any federal or state court of competent jurisdiction,
- b) any rate established through arbitration between NYNEX and a third Party for New Hampshire that is approved by a ruling of the PUC, the FCC or any federal or state court of competent jurisdiction,
- c) the most favorable (lowest) negotiated Link rate agreed to by NYNEX and a third Party in State of New Hampshire.

9.9.5 "Initial Link Months" represents the cumulative sum of total links in service to KMC each month for the period beginning on the effective date of this agreement and ending at the date of the Initial Link Rate Decision. For example, if 10 links are in service each month for five (5) months, the number of Link Months would equal 50.

9.9.6 "Final Link Months" represents the cumulative sum of total links in service to KMC each month for the period beginning on the effective date of this agreement and ending at the date of the Final Link Rate Decision.

9.9.7 "Initial Per-Link True-up" represents the difference between the Current Monthly Rate and the rate established under the Initial Link Rate Decision.

9.9.8 "Final Per-Link True-up" represents the difference between the rate established under any Initial Link Rate Decision and the Final Link Rate Decision; or the difference between the Current Monthly Rate and the Final Link Rate Decision. absent any Initial Link Rate Decision.

9.9.9 "Initial True-up Amount" is the product amount calculated by multiplying Initial Link Months by the Initial Per-Link True-up.

9.9.10 "Final True-up Amount" is the product amount calculated by multiplying Link Months by the Final Per-Link True-up.

9.9.11 NYNEX agrees to pay KMC and KMC agrees to pay NYNEX the Initial True-up Amount as applicable within thirty (30) days of the Initial Link Rate Decision.

9.9.12 NYNEX agrees to pay KMC and KMC agrees to pay NYNEX the Final True-up Amount as applicable within thirty (30) days of any Final Link Decision.



9.9.13 KMC and NYNEX will track the number of Link Months on a prospective basis up until payment of the Final True-up Amount.

9.9.14 If the PUC does not act by 3/31/97 to set Interim or Final Link Rates, NYNEX will file a tariff with the PUC prior to 5/31/97 so as to set forth a regulatory review that will lead to establishment of Final Link Rates.

#### **9.10 Acknowledgments Related to Unbundled Network Elements**

9.10.1 KMC acknowledges that NYNEX's provision of unbundled links provides it with local loop transmission from the central office to the customer's premises, unbundled from local switching or other services.

9.10.2 KMC acknowledges that NYNEX's provision of unbundled switched transport provides it with local transport from the trunk side of a wireline local exchange carrier switch unbundled from switching or other services.

9.10.3 KMC acknowledges that NYNEX's provision of unbundled line-side ports and unbundled trunk-side ports makes available local switching unbundled from transport, local loop transmission and other services.

9.10.4 KMC acknowledges that the Network Element Bona Fide Request Process established pursuant to this Agreement satisfies the requirements of the Act to provide unbundled network elements.

#### **10.0 RESALE – SECTIONS 251(c)(4) and 251(b)(1)**

##### **10.1 Availability of Wholesale Rates for Resale**

NYNEX shall offer to KMC for resale at wholesale rates on April 2, 1997, or when electronic interfaces to support resale are deployed in New Hampshire, whichever is earlier, its local exchange telecommunications services, as described in Section 251(c)(4) of the Act at rates determined by the Commission, pursuant to the terms and conditions of NYNEX's applicable tariffs.

##### **10.2 Availability of Retail Rates for Resale**

Each Party shall make available its Telecommunications Services for resale at retail rates to the other Party in accordance with Section 251(b)(1) of the Act in accordance with each Party's applicable approved tariffs.

##### **10.3 Term and Volume Discounts**

Upon request, NYNEX agrees to offer term and volume discounts for resold retail services.

#### **11.0 NOTICE OF CHANGES -- SECTION 251(c)(5)**

If a Party makes a change in its network which it believes will materially affect the inter-operability of its network with the other Party, the Party making the change shall provide at least ninety (90) days advance written notice of such change to the other Party.

#### **12.0 COLLOCATION -- SECTION 251(c)(6)**

12.1 Upon request, NYNEX shall provide to KMC Physical Collocation for its transport facilities and equipment, pursuant to the terms and conditions of NYNEX's applicable tariffs on file with the FCC (FCC Tariff No. 1) and the PUC as necessary for Interconnection (pursuant to Section 4.0) or for access to unbundled Network Elements (pursuant to Section 9.0). NYNEX may provide for Virtual Collocation if NYNEX demonstrates to the PUC that Physical Collocation is not practical for technical reasons or because of space limitations, as provided in Section 251(c)(6) of the Act. Upon request by KMC and to the extent technically feasible and as space permits, NYNEX shall provide collocation at additional locations for placement of such equipment and alternative physical collocation arrangements.

12.2 Although not required to do so by Section 251(c)(6) of the Act, by this Agreement, KMC agrees to provide to NYNEX upon NYNEX's Network Element Bona Fide Request, Collocation of equipment for purposes of Interconnection (pursuant to Section 4.0) on a non-discriminatory basis and at comparable rates, terms and conditions as KMC may provide to other third Parties. KMC shall provide such Collocation subject to applicable tariffs or contracts.

12.3 The Collocating Party shall provide its own or third-Party leased transport facilities and terminate those transport facilities in equipment located in its Physical Collocation space at the Housing Party's premises as described in applicable tariffs or contracts and purchase Cross Connection to services or facilities as described in applicable tariffs or contracts.

#### **13.0 NUMBER PORTABILITY -- SECTION 251(b)(2)**

##### **13.1 Scope**

13.1.1 The Parties shall provide Number Portability on a reciprocal basis to each other to the extent technically feasible, and in accordance with rules and regulations as from time to time prescribed by the FCC and/or the PUC.

13.1.2 Until Number Portability is implemented by the industry pursuant to regulations issued by the FCC or the PUC, the Parties agree to provide Interim Telecommunications Number Portability ("INP") to each other through remote call forwarding, route indexing, and full NXX code migration at the prices listed in the Pricing Schedule.

13.1.3 Once Number Portability is implemented pursuant to FCC or PUC regulation, either Party may withdraw, at any time and at its sole discretion, its INP offerings, subject to advance notice to the other Party and coordination to allow the seamless and transparent conversion of INP Customer numbers to Number Portability. Upon implementation of Number Portability pursuant to FCC regulation, both Parties agree to conform and provide such Number Portability.

### 13.2 Procedures for Providing INP Through Remote Call Forwarding

KMC and NYNEX will provide INP through Remote Call Forwarding as follows:

13.2.1 A Customer of one Party ("Party A") elects to become a Customer of the other Party ("Party B"). The Customer elects to utilize the original telephone number(s) corresponding to the Exchange Service(s) it previously received from Party A, in conjunction with the Exchange Service(s) it will now receive from Party B. Upon receipt of confirmation of a signed letter of agency ("LOA") from the Customer (and an associated service order) assigning the number to Party B, Party A will implement an arrangement whereby all calls to the original telephone number(s) will be forwarded to a new telephone number(s) designated by Party B. It is Party B's responsibility to maintain a file of all LOAs and Party A may request, upon reasonable notice, a copy of the LOA. Party A will route the forwarded traffic to Party B over the appropriate Local/IntraLATA Trunks as if the call had originated on Party A's network.

13.2.2 Party B will become the customer of record for the original Party A telephone numbers subject to the INP arrangements. Party A shall use its reasonable efforts to consolidate into as few billing statements as possible for all collect, calling card, and 3rd-number billed calls associated with those numbers, with sub-account detail by retained number. At Party B's sole discretion, such billing statement shall be delivered to Party B in an agreed-upon format via either electronic file transfer, daily magnetic tape, or monthly magnetic tape.

13.2.3 Party A will update its Line Information Database ("LIDB") listings for retained numbers, and restrict or cancel calling cards associated with those forwarded numbers as directed by Party B.

13.2.4 Within two (2) business days of receiving notification from the Customer, Party B shall notify Party A of the Customer's termination of service with Party B, and shall further notify Party A as to that Customer's instructions regarding its telephone number(s). Party A will reinstate service to that Customer, cancel the INP arrangements for that Customer's telephone number(s), or redirect the INP arrangement to another INP-participating-LEC pursuant to the Customer's instructions at that time.

### 13.3 Procedures for Providing INP Through Route Indexing

Upon mutual agreement, NYNEX will deploy a Route Index arrangement as mutually agreed upon, which combines direct trunks, provisioned between NYNEX and KMC's end offices, with trunk side routing translations. Under this arrangement, inbound calls to a ported

number will be pointed at a route index that sends the call to a dedicated trunk group, built as a direct final, for the sole purpose of facilitating completion of calls to a ported number. NYNEX will coordinate with KMC to provide this solution in a mutually agreeable and administratively manageable manner (e.g., NXX level) so as to minimize switch resource utilization for both Parties.

#### 13.4 Procedures for Providing INP Through Full NXX Code Migration

Where either Party has activated an entire NXX for a single Customer, or activated a substantial portion of an NXX for a single Customer with the remaining numbers in that NXX either reserved for future use or otherwise unused, if such Customer chooses to receive service from the other Party, the first Party shall cooperate with the second Party to have the entire NXX reassigned in the LERG (and associated industry databases, routing tables, etc.) to an End Office operated by the second Party. Such transfer will be accomplished with appropriate coordination between the Parties and subject to appropriate industry lead-times for movements of NXXs from one switch to another.

#### 13.5 Other Interim Number Portability Options

KMC may also request Direct Inward Dial Trunks pursuant to applicable tariffs. If interim number portability is made available to any Party for information services traffic (e.g., 976), it will be made available to KMC.

#### 13.6 Receipt of Terminating Compensation on Traffic to INP'ed Numbers

The Parties agree that under INP terminating compensation on calls to INP'ed numbers should be received by each Customer's chosen LEC as if each call to the Customer had been originally addressed by the caller to a telephone number bearing an NPA-NXX directly assigned to the Customer's chosen LEC. In order to accomplish this objective where INP is employed, the Parties shall utilize the process set forth in this Section 13.6 whereby terminating compensation on calls subject to INP will be passed from the Party (the "Performing Party") which performs the INP to the other Party (the "Receiving Party") for whose Customer the INP is provided.

13.6.1 The Parties shall individually and collectively track and quantify INP traffic between their networks based on the CPN of each call by identifying CPNs which are INP'ed numbers. The Receiving Party shall charge the Performing Party for each minute of INP traffic at the INP Traffic Rate specified in Section 13.6.3 in lieu of any other compensation charges for terminating such traffic.

13.6.2 By the Interconnection Activation Date, the Parties shall jointly estimate for the prospective year, based on historic data of all traffic in the LATA, the percentages of such traffic that if dialed to telephone numbers bearing NPA-NXXs directly assigned to (i) Local Traffic exchanged between the Parties ("Local Reciprocal Traffic"), (ii) IntraLATA Toll Traffic exchanged between the Parties ("IntraLATA Toll Reciprocal Traffic"), (iii) appropriate intrastate Feature Group D ("FGD") charges pursuant to Section 6.3 ("Intra Traffic"), (iv) interstate FGD

charges pursuant to Section 6.3 ('Inter Traffic'), or (v) handling as Local Traffic under transiting arrangements between the Parties ('Transit Traffic'). On the date which is six (6) months after the Interconnection Activation Date, and thereafter on each succeeding six month anniversary of such Interconnection Activation Date, the Parties shall establish new INP traffic percentages to be applied in the prospective six (6) month period, based on actual INP traffic percentages from the preceding six (6) month period.

13.6.3 The INP Traffic Rate shall be equal to the sum of : (Local Reciprocal Traffic percentage times the Local Reciprocal Compensation Rate set forth in the Pricing Schedule) plus (IntraLATA Toll Reciprocal Traffic percentage times the IntraLATA Toll Reciprocal Compensation rate set forth in the Pricing Schedule) plus (Intra Traffic percentage times NYNEX's effective intrastate FGD rates) plus (Inter Traffic percentage times NYNEX's effective interstate FGD rates).

A rate of zero shall be applied to the Transit Traffic percentage.

### **13.7 True-up of Monthly INP Costs**

13.7.1 Until such time as a competitively neutral cost recovery mechanism is implemented pursuant to a PUC or FCC order ('the Interim Recovery Period'), the Parties shall track and record the cumulative sum of ported numbers provided via an INP functionality to each other each month for the purpose of calculating an INP true-up amount that the Party providing an INP functionality may then be entitled to bill and receive under such PUC or FCC order. The true-up amount shall equal the sum of the ported numbers provided to the Party receiving the INP functionality, multiplied by the number of months applicable to each ported number during the Interim Recovery Period, multiplied by the Final INP Rate set by the PUC or FCC.

13.7.2 In the event the PUC or FCC establishes a competitively neutral cost recovery mechanism which allows recovery of amounts for the provision of INP functionalities different from those amounts listed for such functionalities in the Pricing Schedule, the Parties shall adopt such different amounts in accordance with such competitively neutral cost recovery mechanism. Should the FCC or PUC adopt a competitively neutral cost recovery mechanism for INP which differs from that stipulated to by the Parties herein, the Parties shall adopt such a mechanism pursuant to said order in lieu of the payment arrangements outlined in this Section 13.0.

### **14.0 NUMBER RESOURCES ASSIGNMENTS**

NYNEX shall assign to KMC NXX codes in accordance with national guidelines at no charge.

### **15.0 DIALING PARITY -- SECTION 251(b)(3)**

NYNEX shall provide Local Dialing Parity as required under Section 251(b)(3) of the Act in the following manner: Telephone numbers are provided pursuant to Section 14.0; Directory

Assistance is provided pursuant to Section 19.2; Directory Listings are provided pursuant to section 19.1; and Operator Services are provided to Sections 19.2.4 and 19.2.6.

#### **16.0 ACCESS TO RIGHTS-OF-WAY -- SECTION 251(b)(4)**

Each Party shall provide the other Party access to its poles, ducts, rights-of-way and conduits it owns or controls, to the extent permitted by law and as required by Section 224 of the Act or PUC Order, on terms, conditions and prices comparable to those offered to any other entity pursuant to each Party's applicable tariffs and/or standard agreements with such entities.

#### **17.0 DATABASES AND SIGNALING**

NYNEX shall provide KMC with interfaces to access NYNEX's databases, including LIDB and 800/888, as well as DCAS for ordering and provisioning purposes, and associated signaling necessary for the routing and completion of KMC's traffic through the provision of SS7 under its applicable tariffs.

#### **18.0 REFERRAL ANNOUNCEMENT**

When a Customer changes its service provider from NYNEX to KMC, or from KMC to NYNEX, and does not retain its original telephone number, the Party formerly providing service to such Customer shall provide a referral announcement ("Referral Announcement") on the abandoned telephone number which provides details on the Customer's new number. Referral Announcements shall be provided reciprocally, free of charge to either the other Party or the Customer, for a period of not less than four (4) months after the date the Customer changes its telephone number in the case of business Customers and not less than sixty (60) days after the date the Customer changes its telephone number in the case of residential Customers. However, if either Party provides Referral Announcements for a period different than the above respective periods when its Customers change their telephone numbers, such Party shall provide the same level of service to Customers of the other Party.

#### **19.0 DIRECTORY SERVICES ARRANGEMENTS**

NYNEX will provide certain directory services to KMC as defined herein. In this Section 19 of this Agreement, references to KMC Customer telephone numbers means telephone numbers falling within NXX codes directly assigned to KMC and to numbers which are retained by KMC on the Customer's behalf pursuant to Interim Telecommunications Number Portability arrangements described in Section 13 of this Agreement.

##### **19.1 Directory Listings and Directory Distributions**

19.1.1 NYNEX will include KMC Customers telephone numbers in all of its "White Pages" and "Yellow Pages" directory listings (including electronic directories) and directory assistance databases associated with the areas in which KMC provides services to such Customers, and will distribute such directories to such KMC's Customers, in an identical and

transparent manner in which it provides those functions for its own KMC's Customers telephone numbers.

19.1.2 NYNEX will include all KMC NXX codes associated with the areas to which each directory pertains, along with NYNEX's own NXX codes in any maps or lists of such codes which are contained in the general reference portions of the directories. KMC's NXX codes shall appear in such maps or lists in the same manner as NYNEX's NXX information.

19.1.3 KMC will provide NYNEX with its directory listings and daily updates to those listings (including new, changed, and deleted listings) in a mutually agreed upon format at no charge.

19.1.4 NYNEX will accord KMC directory listing information the same level of confidentiality which NYNEX accords its own directory listing information.

19.1.5 NYNEX shall provide KMC at no charge with (i) one basic directory listing per customer number, (ii) directory distribution for KMC's customers, and (iii) listings of KMC's customers in the directory assistance database.

19.1.6 NYNEX will provide KMC with a report of all KMC Customer listings ninety (90) days prior to directory publication in such form and format as may be mutually agreed to by both Parties. Both Parties shall use their best efforts to ensure the accurate listing of such information.

#### 19.1.7 Yellow Page Maintenance

NYNEX will work cooperatively with KMC so that Yellow Page advertisements purchased by customers who switch their service to KMC (including customers utilizing Interim Telecommunications Number Portability) are maintained without interruption. NYNEX will allow KMC customers to purchase new yellow pages advertisements without discrimination, under the identical rates, terms and conditions that apply to NYNEX's customers.

#### 19.1.8 Information Pages

NYNEX will include in the "Information Pages" or comparable section of its White Pages Directories for areas served by KMC, listings provided by KMC for KMC's installation, repair and customer service and other service-oriented information, including appropriate identifying logo. Such listings shall appear in the manner that such information appears for subscribers of NYNEX and other LECs. NYNEX shall not charge KMC for inclusion of this information.

#### 19.2 Directory Assistance ("DA") and Operator Services

19.2.1 NYNEX will provide KMC's operators an on-line access to NYNEX directory assistance database, when and where such access becomes available to organizations outside NYNEX.

19.2.2 At KMC's option, NYNEX will provide KMC with intraLATA, NYNEX-branded directory assistance service, or KMC-branded directory assistance and Directory Assistance Call Completion (DACC), which are comparable to the directory assistance service NYNEX makes available to its own end users, at the prices set forth in the Pricing Schedule. At KMC's request, NYNEX will provide call detail records in EMR format for these services at the price set forth in the Pricing Schedule.

19.2.3 When NYNEX provides to KMC DA or Operator Services, NYNEX requires that such services will be provided to KMC over dedicated operator services trunk groups, utilizing Feature Group-D type signaling, with ANI, minus OZZ when interconnecting to the NYNEX operator services network.

19.2.4 KMC (or its operator service provider) and NYNEX will provide LEC-to-LEC Busy Line Verification and Interrupt (BLV/I) trunks to one another, in conjunction with POTS traffic, to enable each Party to support this functionality. (This option is provisioned subject to technical limitations, such as those that apply on ported numbers).

19.2.5 Busy Line Verification ('BLV') is performed when one Party's Customer requests assistance from the operator bureau to determine if the called line is in use. However, the operator bureau will not complete the call for the Customer initiating the BLV inquiry. Only one BLV attempt will be made per Customer operator bureau call, and a charge shall apply whether or not the called Party releases the line.

19.2.6 Busy Line Verification Interrupt ('BLVI') is performed when one Party's operator bureau interrupts a telephone call in progress after BLV has occurred. The operator bureau will interrupt the busy line and inform the called Party that there is a call waiting. The operator bureau will only interrupt the call and will not complete the telephone call of the Customer initiating the BLVI request. The operator bureau will make only one BLVI attempt per Customer operator bureau call and the applicable charge applies whether or not the called Party releases the line.

19.2.7 Each Party's operator bureau shall accept BLV and BLVI inquiries from the operator bureau of the other Party in order to allow transparent provision of BLV/BLVI Traffic between the Parties' networks.

19.2.8 Each Party shall route BLV/BLVI Traffic inquiries over the existing network established between the Parties' respective operator bureaus. Each Party shall compensate the other Party for BLV/BLVI Traffic as set forth in the Pricing Schedule.

19.2.9 NYNEX will provide Operator Services Call Completion to KMC's operators and Customers, upon KMC's request, for the termination of alternate billed calls from KMC's subscribers. Call Completion services will allow the KMC Customers the ability, through the mechanized NYNEX operator interface or the NYNEX operator, to complete calls via 0+ or 0- dialing with alternate billing capabilities. Billing for the calls will be on a flat rate per call



transaction for 0+ calls or per Operator Work Second on 0- calls. NYNEX will provide call detail records in EMR format for the Call Completion services at the rates set forth in the Pricing Schedule.

## **20.0 GENERAL RESPONSIBILITIES OF THE PARTIES**

20.1 NYNEX and KMC shall use their best efforts to comply with the Implementation Schedule.

20.2 The Parties shall exchange technical descriptions and forecasts of their Interconnection and traffic requirements in sufficient detail necessary to establish the Interconnections required to assure traffic completion to and from all Customers in their respective designated service areas. KMC, for the purpose of ubiquitous connectivity, network diversity and alternate routing, shall connect to at least one Tandem Office Switch for the receipt/completion of traffic to any NYNEX End Office Switches.

20.3 Thirty (30) days after the Effective Date and each quarter during the term of this Agreement, each Party shall provide the other Party with a rolling, six (6) calendar month, non-binding forecast of its traffic and volume requirements for the services and Network Elements provided under this Agreement in the form and in such detail as agreed by the Parties. Notwithstanding Section 29.6.1, the Parties agree that each forecast provided under this Section 20.3 shall be deemed "Proprietary Information" under Section 29.6.

20.4 Any Party that is required pursuant to this Agreement to provide a forecast (the "Forecast Provider") or the Party that is entitled pursuant to this Agreement to receive a forecast (the "Forecast Recipient") with respect to traffic and volume requirements for the services and Network Elements provided under this Agreement may request in addition to non-binding forecasts required by Section 20.3 that the other Party enters into negotiations to establish a forecast (a "Binding Forecast") that commits such Forecast Provider to purchase, and such Forecast Recipient to provide, a specified volume to be utilized as set forth in such Binding Forecast. The Forecast Provider and Forecast Recipient shall negotiate the terms of such Binding Forecast in good faith and shall include in such Binding Forecast provisions regarding price, quantity, liability for failure to perform under a Binding Forecast and any other terms desired by such Forecast Provider and Forecast Recipient. Notwithstanding Section 29.6.1, the Parties agree that each forecast provided under this Section 20.4 shall be deemed "Proprietary Information" under Section 29.6.

20.5 Each Party is individually responsible to provide facilities within its network which are necessary for routing, transporting, measuring, and billing traffic from the other Party's network and for delivering such traffic to the other Party's network in the standard format compatible with NYNEX's network and to terminate the traffic it receives in that standard format to the proper address on its network. Such facility shall be designed based upon the description and forecasts provided under Sections 20.2 and 20.3 above. The Parties are each solely responsible for participation in and compliance with national network plans, including The National Network Security Plan and The Emergency Preparedness Plan.

20.6 Neither Party shall use any service related to or using any of the Services provided in this Agreement in any manner that interferes with other persons in the use of their service, prevents other persons from using their service, or otherwise impairs the quality of service to other carriers or to either Party's Customers, and either Party may discontinue or refuse service if the other Party violates this provision. Upon such violation, either Party shall provide the other Party notice, if practicable, at the earliest practicable time.

20.7 Each Party is solely responsible for the services it provides to its Customers and to other Telecommunications Carriers.

20.8 The Parties shall work cooperatively to minimize fraud associated with third-number billed calls, calling card calls, and any other services related to this Agreement.

20.9 Each Party is responsible for administering NXX codes assigned to it.

20.10 Each Party is responsible for obtaining Local Exchange Routing Guide ("LERG") listings of CLLI codes assigned to its switches.

20.11 Each Party shall use the LERG published by Bellcore or its successor for obtaining routing information and shall provide all required information to Bellcore for maintaining the LERG in a timely manner.

20.12 Each Party shall program and update its own Central Office Switches and End Office switches and network systems to recognize and route traffic to and from the other Party's assigned NXX codes. Except as mutually agreed or as otherwise expressly defined in this Agreement, neither Party shall impose any fees or charges on the other Party for such activities.

20.13 At all times during the term of this Agreement, each Party shall keep and maintain in force at each Party's expense all insurance required by law (e.g., workers' compensation insurance) as well as general liability insurance for personal injury or death to any one person, property damage resulting from any one incident, automobile liability with coverage for bodily injury for property damage. Upon request from the other Party, each Party shall provide to the other Party evidence of such insurance (which may be provided through a program of self insurance).

20.14 End User Repair Calls. The Parties will employ the following procedures for handling misdirected repair calls:

20.14.1 In answering repair calls, neither Party shall make disparaging remarks about each other, nor shall they use these repair calls as the basis for internal referrals or to solicit customers to market services. Either Party will respond with factual information in answering customer questions.

20.14.2 Each Party will notify its customers as to the correct telephone numbers to call in order to access its repair bureaus.

20.14.3 To the extent possible, where the correct local exchange carrier can be determined, misdirected repair calls to one Party will be immediately referred to the other Party, as appropriate in a courteous manner, at no charge.

20.14.4 The Parties will provide their respective repair contact numbers to one another on a reciprocal basis.

## **21.0 TERM AND TERMINATION**

21.1 The initial term of this Agreement shall be three (3) years (the "Term") which shall commence on the Effective Date. Absent the receipt by one Party of written notice from the other Party at least sixty (60) days prior to the expiration of the Term to the effect that such Party does not intend to extend the Term of this Agreement, this Agreement shall automatically renew and remain in full force and effect on and after the expiration of the Term until terminated by either Party as set forth below.

21.1.1 If pursuant to Section 21.1 the Agreement continues in full force and effect after the expiration of the Term, either Party may terminate the Agreement ninety (90) days after delivering written notice to the other Party of the intention to terminate this Agreement. Neither Party shall have any liability to the other Party for termination of this Agreement pursuant to this Section 21.1 other than to pay to the other Party any amounts under this Agreement.

21.2 Upon termination or expiration of this Agreement in accordance with this Section 21.0:

(a) each Party shall comply immediately with its obligations set forth in Section 29.6.3;

(b) each Party shall promptly pay all amounts (including any late payment charges) owed under this Agreement;

(c) each Party's indemnification obligations shall survive termination or expiration of this Agreement.

21.3 Except as set forth in Section 27.5 no remedy set forth in this Agreement is intended to be exclusive and each and every remedy shall be cumulative and in addition to any other rights or remedies now or hereafter existing under applicable law or otherwise.

## **22.0 DISCLAIMER OF REPRESENTATIONS AND WARRANTIES**

EXCEPT AS EXPRESSLY PROVIDED UNDER THIS AGREEMENT, NO PARTY MAKES OR RECEIVES ANY WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO

THE SERVICES, FUNCTIONS AND PRODUCTS IT PROVIDES UNDER OR CONTEMPLATED BY THIS AGREEMENT AND THE PARTIES DISCLAIM THE IMPLIED WARRANTIES OF MERCHANTABILITY OR OF FITNESS FOR A PARTICULAR PURPOSE.

### **23.0 CANCELLATION CHARGES**

Except as provided in Sections 9.6.4 and 19.4 and pursuant to a Network Element Bona Fide Request, or as otherwise provided in any applicable tariff or contract referenced herein, no cancellation charges shall apply.

### **24.0 NON-SEVERABILITY**

24.1 The services, arrangements, Interconnection, Network Elements, terms and conditions of this Agreement were mutually negotiated by the Parties as a total arrangement and are intended to be non-severable, subject only to Section 29.14 of this Agreement.

24.2 Nothing in this Agreement shall be construed as requiring or permitting either Party to contravene any mandatory requirement of federal or state law, or any regulations or orders adopted pursuant to such law.

### **25.0 INDEMNIFICATION**

25.1 Each Party (the "Indemnifying Party") shall indemnify and hold harmless the other Party ("Indemnified Party") from and against loss, cost, claim liability, damage, and expense (including reasonable attorney's fees) to third Parties for:

(1) damage to tangible personal property or for personal injury proximately caused by the negligence or willful misconduct of the Indemnifying Party, its employees, agents or contractors;

and

(2) claims for libel, slander, infringement of copyright arising from the material transmitted over the Indemnified Party's facilities arising from the Indemnifying Party's own communications or the communications of such Indemnifying Party's Customers;

and

(3) claims for infringement of patents arising from combining the Indemnified Party's facilities or services with, or the using of the Indemnified Party's services or facilities in connection with, facilities of the Indemnifying Party.

Notwithstanding this indemnification provision or any other provision in the Agreement, neither Party, nor its parent, subsidiaries, affiliates, agents, servants, or employees shall be liable to the other for "Consequential Damages" as that term is described in Section 26.3 below.

25.2 The Indemnified Party will notify the Indemnifying Party promptly in writing of any claims, lawsuits, or demands by third Parties for which the Indemnified Party alleges that the

Indemnifying Party is responsible under this Section, and, if requested by the Indemnifying Party, will tender the defense of such claim, lawsuit or demand.

(1) In the event the Indemnifying Party does not promptly assume or diligently pursue the defense of the tendered action, then the Indemnified Party may proceed to defend or settle said action and the Indemnifying Party shall hold harmless the Indemnified Party from any loss, cost liability, damage and expense.

(2) In the event the Party otherwise entitled to indemnification from the other elects to decline such indemnification, then the Party making such an election may, at its own expense, assume defense and settlement of the claim, lawsuit or demand.

(3) The Parties will cooperate in every reasonable manner with the defense or settlement of any claim, demand, or lawsuit.

25.3 Notwithstanding any other provisions of this Agreement, KMC shall defend and indemnify NYNEX and shall hold NYNEX harmless from and against any and all Loss alleged to have been incurred by a customer of KMC or any other third Party where such Loss arises or is attributable to NYNEX's performance or failure to perform a 'Specified Activity' as that term is defined in Section 27, below.

## **26.0 LIMITATION OF LIABILITY**

26.1 Except for the payment of Liquidated Damages by NYNEX to KMC pursuant to Section 27 below, no liability shall attach to either Party, its parents, subsidiaries, affiliates, agents, servants or employees for damages arising from errors, mistakes, omissions, interruptions, or delays in the course of establishing, furnishing, rearranging, moving, terminating, changing, or providing or failing to provide services or facilities (including the obtaining or furnishing of information with respect thereof or with respect to users of the services or facilities) in the absence of gross negligence or willful misconduct.

26.2 Except as otherwise provided in Section 25.0, no Party shall be liable to the other Party for any Loss, defect or equipment failure caused by the conduct of the other Party, the other Party's agents, servants, contractors or others acting in aid or concert with the other Party, except for gross negligence or willful misconduct.

26.3 In no event shall either Party have any liability whatsoever to the other Party for any indirect, special, consequential, incidental or punitive damages, including but not limited to loss of anticipated profits or revenue or other economic loss in connection with or arising from anything said, omitted or done hereunder (collectively, "Consequential Damages"), even if the other Party has been advised of the possibility of such damages.

## **27.0 LIQUIDATED DAMAGES FOR SPECIFIED ACTIVITIES**

27.1 Certain Definitions. When used in this Section 27.0, the following terms shall have the meanings indicated:

27.1.1 "Specified Performance Breach" means the failure by NYNEX to meet the Performance Criteria for any of the three Specified Activities as defined below, for a period of three (3) consecutive calendar months.

27.1.2 "Specified Activity" means any of the following activities:

- (i) the installation by NYNEX of unbundled Links for KMC ("Unbundled Link Installation");
- (ii) NYNEX's provision of Interim Telecommunications Number Portability to KMC or
- (iii) the repair of out of service problems for KMC ("Out of Service Repairs").

27.1.3 "Performance Criteria" means, with respect to each calendar month during the term of this Agreement, the performance by NYNEX during each month of each Specified Activity shown in Schedule 27.0, subparagraphs 1 and 2, within the time interval shown in at least eighty percent (80%) of the covered instances, except as otherwise provided for in the Schedule in subparagraph 3.

27.2 Specified Performance Breach. In recognition of the (1) loss of Customer opportunities, revenues and goodwill which KMC might sustain in the event of a Specified Performance Breach; (2) the uncertainty, in the event of such a Specified Performance Breach, of KMC having available to it customer opportunities similar to those opportunities currently available to KMC; and (3) the difficulty of accurately ascertaining the amount of damages KMC would sustain in the event of such a Specified Performance Breach, NYNEX agrees to pay KMC, subject to Section 27.4 below, damages as set forth in Section 27.3 below in the event of the occurrence of a Specified Performance Breach. Such payments will only apply after a minimum of 250 links have been installed for KMC in the State of New Hampshire.

27.3 Liquidated Damages. The damages payable by NYNEX to KMC as a result of a Specified Performance Breach shall be as specified in Schedule 27.3 for each Specified Performance Breach (collectively, the "Liquidated Damages"). KMC and NYNEX agree and acknowledge that (a) the Liquidated Damages are not a penalty and have been determined based upon the facts and circumstances of KMC and NYNEX at the time of the negotiation and entering into of this Agreement, with due regard given to the performance expectations of each Party; (b) the Liquidated Damages constitute a reasonable approximation of the damages KMC would sustain if its damages were readily ascertainable; and (c) KMC shall not be required to provide any proof of the Liquidated Damages.

27.4 Limitations. In no event shall NYNEX be liable to pay the Liquidated Damages if NYNEX's failure to meet or exceed any of the Performance Criteria is caused, directly or indirectly, by a Delaying Event. A "Delaying Event" means (a) a failure by KMC to perform any of its obligations set forth in this Agreement (including, without limitation, the Implementation Schedule and the Joint Grooming Plan), (b) any delay, act or failure to act by a Customer, agent or subcontractor of KMC, (c) any Force Majeure Event (d) or such other delay, act or failure to act as upon which the Parties may agree. If a Delaying Event (i) prevents NYNEX from performing a Specified Activity, then such Specified Activity shall be excluded from the calculation of NYNEX's compliance with the Performance Criteria, or (ii) only suspends NYNEX's ability to timely perform the Specified Activity, the applicable time frame in which NYNEX's compliance with the Performance Criteria is measured shall be extended on an hour-for-hour or day-for-day basis, as applicable, equal to the duration of the Delaying Event.

27.4.1 KMC shall meet the specific performance standards associated with quality of service requests as specified in Schedule 27.4.1 in the same percentages as set forth in Schedule 27.0. Should KMC fail to meet these quality of service request standards, during a period corresponding to that measured in calculation of Liquidated Damages payable by NYNEX to KMC, NYNEX will not be liable for payment of any applicable Liquidated Damages for that time period.

27.5 Sole Remedy. The Liquidated Damages shall be the sole and exclusive remedy of KMC under this Agreement for NYNEX's breach of the Performance Criteria and a Specified Performance Breach as described in this Section 27.0.

27.6 Records. NYNEX will endeavor to maintain complete and accurate records, on a monthly basis, of its performance under this Agreement of each Specified Activity and its compliance with the Performance Criteria. NYNEX shall provide to KMC such records in a self-reporting format on a monthly basis. Notwithstanding Section 29.6.1, the Parties agree that such records shall be deemed "Proprietary Information" under Section 29.6.

27.7 Start Date. NYNEX and KMC shall jointly agree on appropriate measurements for the enforcement of this Section 27 within ninety (90) days of this Agreement. Performance monitoring and liquidated damages shall begin after the in-service requirements are met.

27.8 NYNEX agrees that it shall make available to KMC, at KMC's sole option, any Liquidated Damages arrangement set forth in Section 27.0 that NYNEX offers to another Telecommunications Carrier in the State of New Hampshire at the same terms and conditions provided to such other Telecommunications Carrier, at terms and conditions set forth in its applicable tariffs, or as provided by law, rule or regulation.

## 28.0 REGULATORY APPROVAL

The Parties understand and agree that this Agreement will be filed with the Commission and may thereafter be filed with the FCC. The Parties covenant and agree that this Agreement is satisfactory to them as an agreement under Section 251 of the Act. Each Party covenants and

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29.4 Independent Contractor. Neither this Agreement, nor any actions taken by NYNEX or KMC in compliance with this Agreement, shall be deemed to create an agency or joint venture relationship between KMC and NYNEX, or any relationship other than that of purchaser and seller of services.

Neither this Agreement, nor any actions taken by NYNEX or KMC in compliance with this Agreement, shall create a contractual, agency, or any other type of relationship or third Party liability between NYNEX's and KMC's end users.

29.5 Force Majeure. Neither Party shall be liable for any delay or failure in performance of any part of this Agreement from any cause beyond its control and without its fault or negligence including, without limitation, acts of nature, acts of civil or military authority, government regulations, embargoes, epidemics, terrorist acts, riots, insurrections, fires, explosions, earthquakes, nuclear accidents, floods, work stoppages, equipment failure, power blackouts, volcanic action, other major environmental disturbances, unusually severe weather conditions, inability to secure products or services of other persons or transportation facilities or acts or omissions of transportation carriers (collectively, a "Force Majeure Event").

If any force majeure condition occurs, the Party delayed or unable to perform shall give immediate notice to the other Party and shall take all reasonable steps to correct the force majeure condition. During the pendency of the force majeure, the duties of the Parties under this Agreement affected by the force majeure condition shall be abated and shall resume without liability thereafter.

#### 29.6 Confidentiality.

29.6.1 Any information such as specifications, drawings, sketches, business information, forecasts, models, samples, data, computer programs and other software and documentation of one Party (a "Disclosing Party") that is furnished or made available or otherwise disclosed to the other Party or any of its employees, contractors, agents or Affiliates (its "Representatives" and with a Party, a "Receiving Party") pursuant to this Agreement ("Proprietary Information") shall be deemed the property of the Disclosing Party. Proprietary Information, if written, shall be marked "Confidential" or "Proprietary" or by other similar notice, and, if oral or visual, shall be confirmed in writing as confidential by the Disclosing Party to the Receiving Party within ten (10) days after disclosure. Unless Proprietary Information was previously known by the Receiving Party free of any obligation to keep it confidential, or has been or is subsequently made public by an act not attributable to the Receiving Party, or is explicitly agreed in writing not to be regarded as confidential, it (a) shall be held in confidence by each Receiving Party; (b) shall be disclosed to only those persons who have a need for it in connection with the provision of services required to fulfill this Agreement and shall be used only for such purposes; and (c) may be used for other purposes only upon such terms and conditions as may be mutually agreed to in advance of use in writing by the Parties. Notwithstanding the foregoing sentence, a Receiving Party shall be entitled to disclose or provide Proprietary Information as required by any governmental authority or applicable law only in accordance with Section 29.6.2.



29.6.2 If any Receiving Party is required by any governmental authority or by applicable law to disclose any Proprietary Information, then such Receiving Party shall provide the Disclosing Party with written notice of such requirement as soon as possible and prior to such disclosure. The Disclosing Party may then either seek appropriate protective relief from all or part of such requirement or, if it fails to successfully do so, it shall be deemed to have waived the Receiving Party's compliance with Section 29.6 with respect to all or part of such requirement. The Receiving Party shall use all commercially reasonable efforts to cooperate with the Disclosing Party in attempting to obtain any protective relief which such Disclosing Party chooses to obtain.

29.6.3 In the event of the expiration or termination of this Agreement for any reason whatsoever, each Party shall return to the other Party or destroy all Proprietary Information and other documents, work papers and other material (including all copies thereof) obtained from the other Party in connection with this Agreement and shall use all reasonable efforts, including instructing its employees and others who have had access to such information, to keep confidential and not to use any such information, unless such information is now, or is hereafter disclosed, through no act, omission or fault of such Party, in any manner making it available to the general public.

29.7 Governing Law. For all claims under this Agreement that are based upon issues within the jurisdiction (primary or otherwise) of the FCC, the exclusive jurisdiction and remedy for all such claims shall be as provided for by the FCC and the Act. For all claims under this Agreement that are based upon issues within the jurisdiction (primary or otherwise) of the PUC, the exclusive jurisdiction for all such claims shall be with the PUC, and the exclusive remedy for such claims shall be as provided for by such PUC. In all other respects, this Agreement shall be governed by the domestic laws of the State of New Hampshire without reference to conflict of law provisions.

29.8 Taxes. Each Party purchasing services hereunder shall pay or otherwise be responsible for all federal, state, or local sales, use, excise, gross receipts, transaction or similar taxes, fees or surcharges levied against or upon such purchasing Party (or the providing Party when such providing Party is permitted to pass along to the purchasing Party such taxes, fees or surcharges), except for any tax on either Party's corporate existence, status or income. Whenever possible, these amounts shall be billed as a separate item on the invoice. To the extent a sale is claimed to be for resale tax exemption, the purchasing Party shall furnish the providing Party a proper resale tax exemption certificate as authorized or required by statute or regulation by the jurisdiction providing said resale tax exemption. Failure to timely provide said resale tax exemption certificate will result in no exemption being available to the purchasing Party.

29.9 Non-Assignment. This Agreement shall be binding upon every subsidiary and affiliate of either Party that is engaged in providing telephone exchange and exchange access services in any territory within which NYNEX is an Incumbent Local Exchange Carrier as of the date of this Agreement (the "NYNEX Territory"), and shall continue to be binding upon all such entities regardless of any subsequent change in their ownership. Each Party covenants that, if it sells or otherwise transfers to a third Party its telephone exchange and exchange access network facilities within the NYNEX Territory, or any portion thereof, to a third Party, it will require as a

condition of such transfer that the transferee agree to be bound by this Agreement with respect to services provided over the transferred facilities. Except as provided in this paragraph, neither Party may assign or transfer (whether by operation of law or otherwise) this Agreement (or any rights or obligations hereunder) to a third Party without the prior written consent of the other Party which consent will not be unreasonably withheld; provided that either Party may assign this Agreement to a corporate Affiliate or an entity under its common control or an entity acquiring all or substantially all of its assets or equity by providing prior written notice to the other Party of such assignment or transfer. Any attempted assignment or transfer that is not permitted is void ab initio. Without limiting the generality of the foregoing, this Agreement shall be binding upon and shall inure to the benefit of the Parties' respective successors and assigns.

29.10 Non-Waiver. Failure of either Party to insist on performance of any term or condition of this Agreement or to exercise any right or privilege hereunder shall not be construed as a continuing or future waiver of such term, condition, right or privilege.

29.11 Disputed Amounts.

29.11.1 If any portion of an amount due to a Party (the "Billing Party") under this Agreement is subject to a bona fide dispute between the Parties, the Party billed (the "Non-Paying Party") shall within thirty (30) days of its receipt of the invoice containing such disputed amount give notice to the Billing Party of the amounts it disputes ("Disputed Amounts") and include in such notice the specific details and reasons for disputing each item. The Non-Paying Party shall pay when due (i) all undisputed amounts to the Billing Party and (ii) all Disputed Amounts into an interest bearing escrow account with a third Party escrow agent mutually agreed upon by the Parties.

29.11.2 Any undisputed amounts not paid when due shall accrue interest from the date such amounts were due at the lesser of (i) one and one-half percent (1-1/2%) per month or (ii) the highest rate of interest that may be charged under applicable law.

29.11.3 Within seven (7) days of receipt of such notice each Party shall appoint a designated representative who has authority to settle the dispute and who is at a higher level of management than the person(s) with direct responsibility for the administration of this Agreement and who shall attempt to resolve the issue through negotiations. If the Parties are unable to resolve issues related to the Disputed Amounts within forty-five (45) days after the Parties' appointment of designated representatives, or within fifty two (52) days after receipt of such notice, then either Party may petition the PUC pursuant to the dispute resolution process described in Section 29.20, to resolve such issues or proceed with any other remedy pursuant to law or equity. The PUC may direct payment of any or all funds (including any accrued interest) plus applicable late fees, in the escrow account, to be paid to either Party.

29.11.4 The Parties agree that all negotiations pursuant to this Section 29.11 shall remain confidential and shall be treated as compromise and settlement negotiations for purposes of the Federal Rules of Evidence and state rules of evidence.

29.12 Notices. Notices given by one Party to the other Party under this Agreement shall be in writing and shall be (a) delivered personally, (b) delivered by express delivery service, (c) mailed, certified mail or first class U.S. mail postage prepaid, return receipt requested or (d) delivered by telecopy to the following addresses of the Parties:

To KMC:

KMC Telecom, Inc.  
1545 Route 206 Suite 300  
Bedminister, NJ 07921  
Attn: Michael Sternberg, President  
Facsimile: (908) 719-2211

To NYNEX:

NYNEX  
1095 Avenue of Americas  
40th Floor  
New York NY 10036  
Attn: Vice President - Wholesale Markets  
Facsimile: (212) 597-2585

or to such other address as either Party shall designate by proper notice. Notices will be deemed given as of the earlier of (i) the date of actual receipt, (ii) the next business day when notice is sent via express mail or personal delivery, (iii) three (3) days after mailing in the case of first class or certified U.S. mail or (iv) on the date set forth on the confirmation in the case of telecopy.

29.13 Publicity and Use of Trademarks or Service Marks. Neither Party nor its subcontractors or agents shall use the other Party's trademarks, service marks, logos or other proprietary trade dress in any advertising, press releases, publicity matters or other promotional materials without such Party's prior written consent.

29.14 Section 252(i) Obligations. If either Party enters into an agreement (the "Other Agreement") approved by the PUC or FCC pursuant to Section 252 of the Act which provides for the provision in the State of New Hampshire of arrangements covered in this Agreement to another requesting Telecommunications Carrier, including itself or its affiliate, such Party shall make available to the other Party such arrangements upon the same rates, terms and conditions as those provided in the Other Agreement. At its sole option, the other Party may avail itself of either (i) the Other Agreement in its entirety or (ii) all of the prices, terms and conditions contained in the Other Agreement that relate to any one or combination of the following:

- (1) Interconnection - Section 251(c)(2) of the Act (Section 4.0 and 5.0 of this Agreement); or

- (2) Exchange Access - Section 251(c)(2) of the Act (Section 6.0 of this Agreement), or
- (3) Unbundled Access - Section 251(c)(3) of the Act (Section 9.0 of this Agreement); or
- (4) Resale - Section 251(c)(4) of the Act (Section 10.0 of this Agreement); or
- (5) Collocation - Section 251(c)(6) of the Act (Section 12.0 of this Agreement); or
- (6) Number Portability - Section 251(b)(2) of the Act (Section 13.0 of this Agreement); or
- (7) Access to Rights of Way - Section 251(b)(4) of the Act (Section 16.0 of this Agreement); or
- (8) Directory Services - Section 251(b)(3) of the Act (Section 19.0 of the Agreement).

29.15 Joint Work Product. This Agreement is the joint work product of the Parties and has been negotiated by the Parties and their respective counsel and shall be fairly interpreted in accordance with its terms and, in the event of any ambiguities, no inferences shall be drawn against either Party.

29.16 No Third Party Beneficiaries; Disclaimer of Agency. This Agreement is for the sole benefit of the Parties and their permitted assigns, and nothing herein express or implied shall create or be construed to create any third-Party beneficiary rights hereunder. Except for provisions herein expressly authorizing a Party to act for another, nothing in this Agreement shall constitute a Party as a legal representative or agent of the other Party, nor shall a Party have the right or authority to assume, create or incur any liability or any obligation of any kind, express or implied, against or in the name of or on behalf of the other Party unless otherwise expressly permitted by such other Party. Except as otherwise expressly provided in this Agreement, no Party undertakes to perform any obligation of the other Party, whether regulatory or contractual, or to assume any responsibility for the management of the other Party's business.

29.17 No License. No license under patents, copyrights or any other intellectual property right (other than the limited license to use consistent with the terms, conditions and restrictions of this Agreement) is granted by either Party or shall be implied or arise by estoppel with respect to any transactions contemplated under this Agreement.

29.18 Technology Upgrades. Nothing in this Agreement shall limit NYNEX's ability to upgrade its network through the incorporation of new equipment, new software or otherwise. NYNEX shall provide KMC written notice at least ninety (90) days prior to the incorporation of

any such upgrades in NYNEX's network which will materially impact KMC's service. KMC shall be solely responsible for the cost and effort of accommodating such changes in its own network.

29.19 Local Calling Area. There is no consensus between the Parties on the definition of a local calling area. To facilitate the immediate exchange of traffic between KMC and NYNEX, local calling areas as defined in NHPUC - No. 77 shall apply, until modified by the PUC. Nothing herein shall limit KMC's ability to offer calling areas/plans for retail purposes that define calling areas different from NYNEX's existing local calling areas, nor shall KMC be prohibited from petitioning the PUC to adopt a different definition(s) of a local calling area from that described in NHPUC - No. 77.

29.20 Alternate Dispute Resolution.

29.20.1 If a dispute arises between NYNEX and KMC during the term of the Agreement, the following process, which shall be overseen by the Commission, shall be followed to resolve such dispute:

a) The Parties shall have an initial thirty (30) day period beginning from the date on which either Party has provided written notice to the other Party identifying the existence of a dispute and seeking to resolve it, within which to resolve the dispute themselves, without mediation or arbitration as provided below.

b) If the dispute is not resolved within such thirty (30) day period, either Party may petition the Commission to request mediation. The period of mediation shall be sixty (60) days commencing on the date of filing of such petition for mediation. Such petition shall include a request to the Commission to choose a mediator within the first ten (10) days of such sixty (60) day period, and the mediation shall be conducted by a mediator designated by the Commission. The Parties shall cooperate in good faith with the mediator to resolve the dispute within such sixty (60) day period. If, at any date following the forty-fifth (45) day of such sixty (60) day period, the Parties have not resolved their dispute, the mediator may formally declare a deadlock.

c) Following the earlier to occur of (x) expiration of the sixty (60) day mediation period without resolution of the dispute between the Parties or (y) formal declaration of a deadlock by the mediator as contemplated in preceding paragraph (b), either Party may petition the Commission for arbitration. The period of arbitration shall be seventy (70) days commencing on the date of filing of such petition for arbitration. Such petition shall include a request to the Commission to choose an arbitrator within the first ten (10) days of such seventy (70) day period, and the arbitration shall be conducted by an arbitrator designated by the Commission.

29.20.2 In the event that NYNEX and KMC must enter into the dispute resolution process described above, both Parties shall share equally the expense to the Commission of such process. However, if in the Commission's judgment, one Party's claim is particularly and/or consistently frivolous, then the Commission may determine that such Party should bear such expense.

29.21 Survival. The Parties' obligations under this Agreement which by their nature are intended to continue beyond the termination or expiration of this Agreement shall survive the termination or expiration of this Agreement, including without limitation, Sections 21.4, 22.0, 23.0, 25.0, 26.0, 29.3, 29.6, 29.11, 29.13 and 29.17.

29.22 Scope of Agreement. This Agreement is intended to describe and enable specific Interconnection and access to unbundled Network Elements and compensation arrangements between the Parties. This Agreement does not obligate either Party to provide arrangements not specifically provided for herein.

29.23 Entire Agreement. The terms contained in this Agreement and any Schedules, Exhibits, tariffs and other documents or instruments referred to herein, which are incorporated into this Agreement by this reference, constitute the entire agreement between the Parties with respect to the subject matter hereof, superseding all prior understandings, proposals and other communications, oral or written. Neither Party shall be bound by any preprinted terms additional to or different from those in this Agreement that may appear subsequently in the other Party's form documents, purchase orders, quotations, acknowledgments, invoices or other communications. This Agreement may only be modified by a writing signed by an officer or an officer of a member of each Party.

29.24 Power and Authority. Each Party has full power and authority to enter into and perform this Agreement, and the person signing this Agreement on behalf of each has been properly authorized and empowered to enter into this Agreement.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as of this 14th day of February, 1997.

KMC TELECOM, INC.

By: 

Printed: Michael Sternberg

Title: President

NYNEX

By: 

Printed: Jacob J. Goldberg

Title: Vice President - Wholesale Markets

## SCHEDULE 1.0

### CERTAIN TERMS AS DEFINED IN THE ACT

"Affiliate" means a person that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with, another person. For purposes of this paragraph, the term "own" means to own an equity interest (or the equivalent thereof) of more than ten percent (10%).

"Dialing Parity" means that a person that is not an Affiliate of a LEC is able to provide Telecommunications Services in such a manner that Customers have the ability to route automatically, without the use of any access code, their Telecommunications to the Telecommunications Services provider of the Customer's designation from among two (2) or more Telecommunications Services providers (including such LEC).

"Exchange Access" means the offering of access to Telephone Exchange Services or facilities for the purpose of the origination or termination of Telephone Toll Services.

"InterLATA Service" means Telecommunications between a point located in a local access and transport area and a point located outside such area.

"Local Access and Transport Area" or "LATA" means a contiguous geographic area: (a) established before the date of enactment of the Act by a Bell operating company such that no Exchange Area includes points within more than one (1) metropolitan statistical area, consolidated metropolitan statistical area, or State, except as expressly permitted under the AT&T Consent Decree; or (b) established or modified by a Bell operating company after such date of enactment and approved by the FCC.

"Local Exchange Carrier" means any person that is engaged in the provision of Telephone Exchange Service or Exchange Access. Such term does not include a person insofar as such person is engaged in the provision of a commercial mobile service under Section 332(c) of the Act, except to the extent that the FCC finds that such service should be included in the definition of such term.

"Network Element" means a facility or equipment used in the provision of a Telecommunications Service. Such term also includes features, functions, and capabilities that are provided by means of such facility or equipment, including subscriber numbers, databases, signaling systems, and information sufficient for billing and collection or used in the transmission, routing, or other provision of a Telecommunications Service.

"Number Portability" means the ability of users of telecommunications services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from one telecommunications carrier to another.



"Telecommunications" means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.

"Telecommunications Carrier" means any provider of Telecommunications Services, except that such term does not include aggregators of Telecommunications Services (as defined in Section 226 of the Communications Act).

"Telecommunications Service" means the offering of Telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.

"Telephone Exchange Service" means (a) service within a telephone exchange within a connected system of telephone exchanges within the same exchange area operated to furnish subscribers intercommunicating service of the character ordinarily furnished by a single exchange, and which is covered by the exchange service charge, or (b) comparable service provided through a system of switches, transmission equipment, or other facilities (or combination thereof) by which a subscriber can originate and terminate a telecommunications service.

"Telephone Toll Service" means telephone service between stations in different exchange areas for which there is made a separate charge not included in contracts with subscribers for exchange service.

**SCHEDULE 4.0 Network Interconnection Schedule\***

LATA	NYNEX N-IP	KMC K-IP	ACTIVATION DATE**
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New Hampshire			
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\* Complete, accurate and verifiable information to be provided by the Parties at a date to be determined by the Parties.

\*\* This is the earliest date on which "live" customers traffic between KMC and NYNEX will occur.

## SCHEDULE 8.2      NYNEX Intervals for Installation

### Service Order Standard Intervals

	<u>Number of DS1 Systems</u>	<u>Standard Interval (Business Days)</u>
Establishment of New Trunk Groups	1-10 over 10	60 Negotiated
Additions to Existent Trunk Groups	1-4 over 4	30 Negotiated

## **SCHEDULE 27.0 NYNEX Performance Criteria for Liquidated Damages<sup>1</sup>**

<b>SPECIFIED ACTIVITY</b>	<b>PERFORMANCE INTERVAL DATE</b>
1. Unbundled Link Installation	
a) New Link Installation:	
i) Order for Installation < 10 links	5 business days
ii) Order for Installation ≥ 10 links	
Facilities Confirmation	5 business days
If Available Facilities	
< 20 links	10 business days from Facilities Confirmation
≥ 20 links	negotiated interval <sup>2</sup>
b) "Hot Cutover" Installation	
i) Order for Installation < 10 links	10 business days (1st 3 mos. after first Link is ordered)
	7 business days (next 3 months)
	5 business days (thereafter)
ii) Order for Installation ≥ 10 links	negotiated interval <sup>2</sup>
2. Interim Number Portability Installation	
i) Order for Installation < 10 numbers	10 business days (1st 3 mos. after first Link is ordered)
	7 business days (next 3 months)
	5 business days (thereafter)
ii) Order for Installation ≥ 10 numbers	negotiated interval <sup>2</sup>

<sup>1</sup> As stated in Section 27.2 (liquidated) damages are not applicable until after a minimum of 250 links are in service for KMC in New Hampshire.

<sup>2</sup> NYNEX will provide the same negotiated intervals it provides to any carrier, Customer or Parties that are similarly situated.

3. Out-of-Service Repairs

(a) Less than 24 hours from NYNEX's Receipt of Notification of Out of Service conditions:

1st half of Agreement period	65%
2nd half of Agreement period	70%

(b) Less than 48 hours from NYNEX's Receipt of Notification of Out of Service conditions. 75%

(c) Less than 72 hours from NYNEX's Receipt of Notification of Out of Service conditions. 85%

## **SCHEDULE 27.4.1**

### **KMC Quality Criteria for Liquidated Damages**

#### **1 New Unbundled Link (SVGALS) Orders**

1.0 ANI to KMC number, verification successful from DEMARC by NYNEX field technician.

1.1 All order information submitted by KMC is valid (e.g. street address, end user LCON, floor/unit number, cable pair assignment)

1.2 Customer (end user) available at appointed date.

1.3 Orders completed as submitted without cancellation after FOC

#### **2 Hot Cut Unbundled Link (SVGALS) Orders**

2.0 Verifiable KMC dial tone at POT bay testable by NYNEX through appropriate tie cable pair as provided by KMC on the service request.

2.1 Accurate account and end user information submitted on service request

2.3 Accurate SVGAL tie cable and pair assignment provided by KMC on service request

2.4 Orders completed as submitted without cancellation after FOC

### SCHEDULE 27.3 LIQUIDATED DAMAGES SCHEDULE

I. Such payments only apply after a minimum of 250 links are installed for KMC<sup>1</sup>.

II. Liquidated Damages Schedule:

Links installed for KMC in New Hampshire	Monthly Specified Activity Threshold	Liquidated Damages (per performance breach)
250 to 499*	10	\$ 1,000
500 to 999*	25	\$ 2,500
1,000 or more**	50	\$ 5,000
3,000 or more**	75	\$ 7,500
5,000 or more**	100	\$10,000

\* Requested "specified activities" must equal the minimum threshold quantity shown in the table above per activity per month to qualify for the level of damages associated with the number of Links in service for KMC in New Hampshire.

\*\* Liquidated damages shall not apply if the minimum activity threshold is less than fifty (50) per month in New Hampshire.

<sup>1</sup> Excludes unbundled link installation "misses" resulting from the provision of extended link service so long as installation of the link facilitates themselves meet the performance intervals set forth in Schedule 27.0.

## PRICING SCHEDULE

I. Reciprocal Compensation for Local traffic shall equal the rate set forth below. Such rate for the first six months shall be:

Rate = \$.008 per minute

The rate for Reciprocal Compensation is to be adjusted bi-annually based upon the rates and formula set forth in this Pricing Schedule. The first adjustment shall occur on July 1, 1997 and future adjustments every six months (6) thereafter.

Reciprocal Compensation for IntraLATA Toll Traffic shall equal each Party's effective applicable tariffed IntraLATA switched access rates.

II. Information Services Billing and Collection

Fee = \$.05 per message

III. BLV/BLVI Traffic

Rate = \$1.00 per Busy Line Verification  
\$1.50 per Busy Line Verification Interrupt  
(in addition to \$1.00 for Busy Line Verification)

IV. Transit Service (Tandem Transient Service)

A. Transit Service

Rate = \$.0035 per minute

B. Dedicated Transiting Service

Rate = twice the applicable charge for a collocated channel termination

V. Interim Telecommunications Number Portability

A. Monthly Recurring Charges

Rate per Business Number = \$2.00  
Rate per Residential Number = \$1.00

No additional charges shall apply for interim number portability, including additional per-path, per-port, or usage-related charges, except for third Party and collect calls.



## PRICING SCHEDULE

### B. Non-recurring charge

Rate = \$20.00 per ported number

Non-recurring charges only apply when interim number portability is ordered separately from an unbundled link.

### VI. IntraLATA 800

Reciprocal Compensation (refer to I above).

Compensation for records exchanged = \$.0115 per record

800 database inquiry = \$.003981 per database inquiry

### VII. Unbundled Links

#### A. Monthly Rates

1. Switched Voice Grade Analog Link (SVGAL) = \$23.00
2. ISDN Premium Link = Price determined on an Individual Case Basis upon request.
3. DS-1 Link = Price determined on an Individual Case Basis upon request.
4. Extended Link Service = Price determined on an Individual Case Basis upon request.
5. ADSL = Price determined on an Individual Case Basis upon request.
6. HDSL = Price determined on an Individual Case Basis upon request.

### VIII. Unbundled Ports

#### A. Monthly Rates

Residence voice grade port = \$8.00

Business voice grade port = \$8.00

### IX. Wholesale Discounts

a. Month- to- month discounts

To be negotiated based on receipt of a Bona Fide Request

b. Term and Volume Discounts

To be negotiated based on receipt of a Bona Fide Request

X. Directory Assistance

NYNEX Branded DA

= \$ .27 per message

KMC Branded DA

= \$ .32 per message

NYNEX Branded DA with Directory Assistance

= \$ .52 per message\*

Call Completion (DACC)

KMC Branded DA with DACC

= \$ .57 per message\*

(\*plus flat rate charge per MOU for Call Completion)

Operator Services - Call Completion Services

0+ / Mechanized Call Completion

Calling Card

= \$.20 per call

Collect

= \$.40 per call

Bill to Third Number

= \$.40 per call

0- / Operator Assisted Call Completion

=\$.0230 per operator  
work second

Record Charges

Record Changes EMR Format - per record charge

= \$.0085

## PRICING SCHEDULE

### Reciprocal Compensation Calculation

#### I. Time of Day Definitions

Day Rate applies Mondays through Fridays from 8AM to, but not including 5PM

Evening Rate applies Sundays through Fridays from 5PM to, but not including 11PM. On Christmas Day (December 25), New Year's Day (January 1), Independence Day (July 4), Thanksgiving Day (the 4th Thursday in November) and Labor Day, the holiday rate is the Evening Rate except during the hours when the Night and Weekend Rate applies.

Night and Weekend Rate applies Sundays through Thursdays from 11PM to, but not including 8AM of the following day and from 11PM Fridays to, but not including 5PM Sundays.

#### II. Base Rates - Per Minute of Use

Day Rate = \$0.0098

Evening Rate = \$0.0073

Night Rate = \$0.0029

#### III. Formula for determining Reciprocal Compensation (%Day Traffic + % Evening Traffic - % Night Traffic = 100% for each Party)

$$\frac{(\text{KMC -originated Day Minutes} + \text{NYNEX-originated Day Minutes}) * \text{Day Rate}}{\text{Total KMC} + \text{NYNEX Minutes}}$$

+

$$\frac{(\text{KMC -originated Evening Minutes} + \text{NYNEX-originated Evening Minutes}) * \text{Evening Rate}}{\text{Total KMC} + \text{NYNEX Minutes}}$$

+

$$\frac{(\text{KMC -originated Night Minutes} + \text{NYNEX-originated Night Minutes}) * \text{Night Rate}}{\text{Total KMC} + \text{NYNEX Minutes}}$$

## EXHIBIT A

### NETWORK ELEMENT BONA FIDE REQUEST

1. Each Party shall promptly consider and analyze access to a new unbundled Network Element with the submission of a Network Element Bona Fide Request hereunder. The Network Element Bona Fide Request process set forth herein does not apply to those services requested pursuant to Report & Order and Notice of Proposed Rulemaking 91-141 (rel. Oct. 19, 1992) ¶ 259 and n.603 or subsequent orders.

2. A Network Element Bona Fide Request shall be submitted in writing and shall include a technical description of each requested Network Element.

3. The requesting Party may cancel a Network Element Bona Fide Request at any time, but shall pay the other Party's reasonable and demonstrable costs of processing and/or implementing the Network Element Bona Fide Request up to the date of cancellation.

4. Within ten (10) business days of its receipt, the receiving Party shall acknowledge receipt of the Network Element Bona Fide Request.

5. Except under extraordinary circumstances, within thirty (30) days of its receipt of a Network Element Bona Fide Request, the receiving Party shall provide to the requesting Party a preliminary analysis of such Network Element Bona Fide Request. The preliminary analysis shall confirm that the receiving Party will offer access to the Network Element or will provide a detailed explanation that access to the Network Element is not technically feasible and/or that the request does not qualify as a Network Element that is required to be provided under the Act.

6. If the receiving Party determines that the Network Element Bona Fide Request is technically feasible and otherwise qualifies under the Act, it shall promptly proceed with developing the Network Element Bona Fide Request upon receipt of written authorization from the requesting Party. When it receives such authorization, the receiving Party shall promptly develop the requested services, determine their availability, calculate the applicable prices and establish installation intervals.

7. Unless the Parties otherwise agree, the Network Element Requested must be priced in accordance with Section 252(d)(1) of the Act.

8. As soon as feasible, but not more than ninety (90) days after its receipt of authorization to proceed with developing the Network Element Bona Fide Request, the receiving Party shall provide to the requesting Party a Network Element Bona Fide Request quote which will include, at a minimum, a description of each Network Element, the availability, the applicable rates and the installation intervals.

9. Within thirty (30) days of its receipt of the Network Element Bona Fide Request quote, the requesting Party must either confirm its order for the Network Element Bona Fide Request pursuant to the Network Element Bona Fide Request quote or seek arbitration by the Commission pursuant to Section 252 of the Act.

10. If a Party to a Network Element Bona Fide Request believes that the other Party is not requesting, negotiating or processing the Network Element Bona Fide Request in good faith, or disputes a determination, or price or cost quote, or is failing to act in accordance with section 251 of the Act, such Party may seek mediation or arbitration by the Commission pursuant to Section 252 of the Act.

DE 98-187

BELL ATLANTIC/LIGHTSHIP TELECOM L.L.C.

Order Nisi Approving Interconnection Agreement

ORDER NO. 23,056

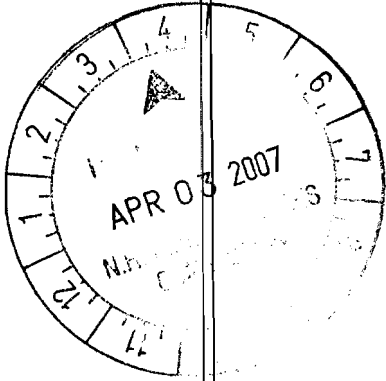
November 2, 1998

On October 16, 1998, New England Telephone and

Telegraph Company (Bell Atlantic) and Lightship Telecom L.L.C. (Lightship) jointly filed with the New Hampshire Public Utilities Commission (Commission) a negotiated Interconnection Agreement (Agreement). The Agreement was filed for approval pursuant to section 252(e) of the Telecommunications Act of 1996 (TAct).

This Agreement provides, inter alia, for transmission/routing of exchange service traffic and exchange access traffic, transmission/termination of other types of traffic and joint network configuration. It further provides for unbundled access, resale, collocation, number portability, dialing parity, access to rights of way, access to data bases, and directory assistance service. The parties will exchange technical and traffic information which will be kept proprietary; each party will maintain facilities within its own network and will not interfere with the other party's systems.

This Agreement is a comprehensive set of terms and conditions that will facilitate the entry of Lightship as a competitive local exchange carrier (CLEC) in New Hampshire. The



parties agree to jointly engineer, plan and operate a diverse transmission system with which they will interconnect their respective networks. The Agreement specifies the designation of interconnection points, provides for a joint grooming plan, and provides for the physical interface of facilities.

The interoffice facilities are priced on an unbundled basis to allow for use with other unbundled network elements, thus creating numerous facilities based and/or resale options to Lightship in the provisioning of exchange and exchange access services. The Agreement also includes detailed unbundling of local outside plant and central office facilities that would allow Lightship to provide digital and other high-tech services with minimal future negotiating or "grooming" of the Agreement.

Prices in this filing are virtually the same as those in previously approved non-cellular interconnection agreements for the services/elements that are common. Staff points out that the TAct does not require that a telecommunications company sell each service/element for the same price or terms to each requesting party. A CLEC can request the entire agreement of another CLEC and in fact this filing is essentially the same as the KMC Telecom agreement approved by Order No. 22,573 (April 22, 1997) in docket DE 97-054.

A Statement of Generally Available Terms (SGAT) was filed by Bell Atlantic on July 11, 1997 and took effect October 20, 1997 per order 22,692 (August 25, 1997) subject to continued review pursuant to section 252(f)(4) of the TAct. This allows Lightship and other competitors to purchase services or unbundled elements that may not be covered by their interconnection agreement.

The Staff has recommended approval of the Agreement between Lightship and Bell Atlantic based on a review of the petition, actual agreement and verbal clarification provided by Bell Atlantic.

We have reviewed the filing and find it meets the standards of section 252(e)(2)(A) of the TAct for approval of a negotiated Agreement. The Agreement does not appear to be discriminatory to any carrier not a party to the negotiations and is consistent with the public interest, convenience, and necessity. We will approve it on a nisi basis in order to provide any interested party an opportunity to submit comments or request a hearing pursuant to RSA 374:26.

**Based upon the foregoing, it is hereby**

**ORDERED NISI**, that the Interconnection Agreement negotiated between Lightship and Bell Atlantic is approved; and it is



**FURTHER ORDERED,** that Lightship will notify the Commission within ten days of making their first facility-based commercial call in any exchange that has not already been opened to a "fresh look opportunity" as ordered in Docket DE 96-420. The recommended method of notifying the Commission is to provide a copy of the "Confirmation of Code Activation Form" which is used to notify the North American Numbering Code Administrator.

**FURTHER ORDERED,** that the Petitioner shall cause a copy of this Order Nisi to be published once in a statewide newspaper of general circulation, such publication to be no later than November 9 , 1998 and to be documented by affidavit filed with this office on or before November 16 , 1998; and it is

**FURTHER ORDERED,** that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than November 23 , 1998; and it is

**FURTHER ORDERED,** that any party interested in responding to such comments or request for hearing shall do so no later than November 30 , 1998; and it is

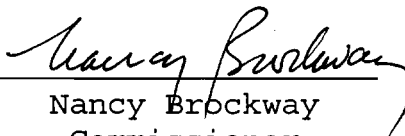
**FURTHER ORDERED,** that this Order Nisi shall be effective December 2 , 1998, unless the Commission provides

otherwise in a supplemental order issued prior to the effective date.

By order of the Public Utilities Commission of New Hampshire this second day of November, 1998.



Douglas L. Patch  
Chairman

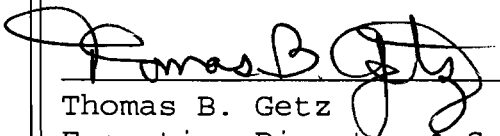


Nancy Brockway  
Commissioner



Susan S. Geiger  
Commissioner

Attested by:



Thomas B. Getz  
Executive Director & Secretary